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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases and Other Operations

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM

SETTLEMENT VALUE

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service, published in 21 F. R. 4000 and 5560, and containing the specific requirements of the 1956-crop wheat price support program are amended to prescribe additional purchase agreement provisions under the program.

Section 421.1645 (a) is amended by deleting subparagraph (2) and inserting a new subparagraph (2) which reads as follows:

§ 421.1645 *Settlement*—(a) *Settlement value.* * * *

(2) The provisions of this subparagraph, together with applicable provisions of the 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Wheat, constitute the regulations applicable to purchase agreement operations under the 1956-crop wheat price support program.

(i) The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any quantity of the wheat to CCC. However, he may sell to CCC any quantity of the eligible wheat not in excess of the quantity stated in the purchase agreement. If the producer who signs a purchase agreement wishes to sell the wheat to CCC, he will have a 30-day period during which he must notify the county committee in writing of his intentions to sell. Such period shall end on the applicable loan maturity date or such earlier date as may be prescribed by the Executive Vice President, CCC.

(ii) In the case of eligible wheat stored commingled in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of wheat he elects to sell to CCC. Such wheat will be purchased, on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents at the applicable support rate determined in accordance with § 421.1618 (d).

(iii) Where the producer has given written notice within the 30-day period prior to the applicable loan maturity date of his intent to sell his wheat stored in other than an approved warehouse under purchase agreement to CCC, an inspection of the wheat shall be made and a sample taken and submitted for grade analysis within the 30-day period and, in any event, prior to delivery of the wheat. If the wheat, on the basis of the pre-delivery inspection, is of a quality which meets the requirements for a farm-storage loan, the county committee will issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within the 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery. Upon delivery of eligible wheat to CCC the wheat shall be reinspected, and settlement shall be made at the applicable support rate for the grade and quality of the quantity of wheat eligible for delivery on the basis of such reinspection. Such support rate shall be determined in accordance with § 421.1618 (d). If wheat which was eligible at the time of the pre-delivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible wheat as determined at the

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time of the pre-delivery inspection, less the difference, if any, at the time of delivery, between the market price for the grade and quality of the wheat determined by the pre-delivery inspection and the market price of the wheat delivered, as determined by CCC: *Provided, however,* That if such wheat is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price and: *Provided further,* That if upon delivery, the wheat is of a quality which does not meet sanitation requirements of § 421.1638 (d) (1), the wheat shall be sold for feed, or for industrial uses other than food and beverages, and in the event it does not meet the requirements of § 421.1638 (d) (2), shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and in each instance covered by this proviso, the settlement value shall be the same as the sales price: *Provided further,* That if CCC is unable to sell such commodity for the use specified above, the settlement value shall be the market value, if any, as

determined by CCC, as of the date of delivery.

(iv) The producer, whose wheat stored in other than an approved warehouse is not of a quality eligible for a loan at the time of the pre-delivery inspection, shall be notified in writing by the county committee that his wheat is not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the wheat or otherwise take action to make the wheat eligible, and insists upon delivery of the wheat, the county committee will issue delivery instructions and will determine upon delivery of the wheat and before purchase, on the basis of a sample taken at that time, whether or not the wheat is actually of an eligible grade and quality. If the wheat is inadvertently accepted by CCC and is of a grade and quality below the eligibility requirements for obtaining a loan, the settlement value for such wheat shall be the market price as determined by CCC for the quality of the wheat delivered. If, however, the wheat is of an eligible grade and quality as determined at the time of delivery, settlement shall be made at the applicable support rate, determined in accordance with § 421.1618 (d), for the grade and quality of the quantity eligible for delivery.

(v) The settlement value on any quantity of wheat in excess of that stated in the purchase agreement which is delivered to, and inadvertently accepted by CCC, shall be the market price for the grade and quality of the quantity delivered, as determined by CCC.

(vi) When delivery of the wheat is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

(vii) The producer may be required to retain the wheat stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the wheat covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for wheat which was of an eligible grade and quality at the time of the pre-delivery inspection, and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the wheat is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the wheat is going out of condition or is in danger of going out of condition and that the wheat cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

(viii) The provisions of § 421.1618 (f) shall be applicable in cases where a producer is ordered by the county committee to deliver his wheat to a shipping point of greater distance than his customary shipping point.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421)

Issued this 4th day of September 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-7193; Filed, Sept. 6, 1956; 8:51 a. m.]

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP BARLEY LOAN AND PURCHASE AGREEMENT PROGRAM

SETTLEMENT VALUE

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service, published in 21 F. R. 4004, 4785, and 5982, and containing the specific requirements of the 1956-crop barley price support program are amended to prescribe additional purchase agreement provisions under the program.

Section 421.1685 (a) is amended by deleting subparagraph (2) and inserting a new subparagraph (2) which reads as follows:

§ 421.1685 *Settlement*—(a) *Settlement value.* * * *

(2) The provisions of this subparagraph, together with applicable provisions of the 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Barley, constitute the regulations applicable to purchase agreement operations under the 1956-crop barley price support program.

(i) The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any quantity of the barley to CCC. However, he may sell to CCC any quantity of the eligible barley not in excess of the quantity stated in the purchase agreement. If the producer who signs a purchase agreement wishes to sell the barley to CCC, he will have a 30-day period during which he must notify the county committee in writing of his intentions to sell. Such period shall end on the applicable loan maturity date or such earlier date as may be prescribed by the Executive Vice President, CCC.

(ii) In the case of eligible barley stored commingled in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, or during such period of time thereafter as may be specified by the county committee, submit to the office of county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of barley he elects to sell to CCC. Such barley will be purchased, on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents at the applicable support rate determined in accordance with § 421.1618 (d).

(iii) Where the producer has given written notice within the 30-day period prior to the applicable loan maturity date of his intent to sell his barley stored in other than an approved warehouse under purchase agreement to CCC an inspection of the barley shall be made and a sample taken and submitted for grade analysis within the 30-day period and, in any event, prior to delivery of the barley. If the barley, on the basis of the pre-delivery inspection, is of a quality which meets the requirements for a farm-storage loan, the county committee will issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within the 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery. Upon delivery of eligible barley to CCC, the barley shall be reinspected, and settlement shall be made at the applicable support rate for the grade and quality of the quantity of barley eligible for delivery on the basis of such reinspection. Such support rate shall be determined in accordance with § 421.1618 (d). If barley which was eligible at the time of the pre-delivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible barley as determined at the time of the pre-delivery inspection, less the difference, if any, at the time of delivery, between the market price for the grade and quality of the barley determined by the pre-delivery inspection and the market price of the barley delivered, as determined by CCC: *Provided, however,* That if such barley is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *Provided further,* That if, upon delivery, the barley contains mercurial compounds or other substances poisonous to man or animals, such barley shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by men or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such commodity for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(iv) The producer, whose barley stored in other than an approved warehouse is not of a quality eligible for a loan at the time of the pre-delivery inspection shall be notified in writing by the county committee that his barley is not eligible for purchase by CCC. If,

nevertheless, the producer informs the county office that he will condition the barley, or otherwise take action to make the barley eligible and insists upon delivery of the barley, the county committee will issue delivery instructions and will determine upon delivery of the barley and before purchase, on the basis of a sample taken at that time, whether or not the barley is actually of an eligible grade and quality. If the barley is inadvertently accepted by CCC and is of a grade and quality below the eligibility requirements for obtaining a loan, the settlement value for such barley shall be the market price as determined by CCC for the quality of the barley delivered. If, however, the barley is of an eligible grade and quality as determined at the time of delivery, settlement shall be made at the applicable support rate, determined in accordance with § 421.1618 (d), for the grade and quality of the quantity eligible for delivery.

(v) The settlement value on any quantity of barley in excess of that stated in the purchase agreement which is delivered to, and inadvertently accepted by CCC, shall be the market price for the grade and quality of the quantity delivered, as determined by CCC.

(vi) When delivery of the barley is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

(vii) The producer may be required to retain the barley stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the barley covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for barley which was of an eligible grade and quality at the time of the pre-delivery inspection, and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the barley is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the barley is going out of condition or is in danger of going out of condition and that the barley cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

(viii) The provisions of § 421.1618 (f) shall be applicable in cases where a producer is ordered by the county committee to deliver his barley to a shipping point of greater distance than his customary shipping point.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054, as amended, sec. 308, 70 Stat. 206; 15 U. S. C. 714c, 1447, 1421)

Issued this 4th day of September 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-7194; Filed, Sept. 6, 1956; 8:51 a. m.]

[1956 CCC Grain Price Support Bulletin 1, Supp. 1, Amdt. 2, Oats]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP OATS LOAN AND PURCHASE AGREEMENT PROGRAM

SETTLEMENT VALUE

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 21 F. R. 4007, 4792, 5031 and 5566, and containing the specific requirements of the 1956-crop oats price support program are amended to prescribe additional purchase agreement provisions under the program.

Section 421.1885 (a) is amended by deleting subparagraph (2) and inserting a new subparagraph (2) which reads as follows:

§ 421.1885 *Settlement*—(a) *Settlement value.* * * *

(2) The provisions of this subparagraph, together with applicable provisions of the 1956 CCC Grain Price Support Bulletin 1, and Supplements 1 and 2, Oats, constitute the regulations applicable to purchase agreement operations under the 1956-crop oats price support program.

(i) The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any quantity of the oats to CCC. However, he may sell to CCC any quantity of the eligible oats not in excess of the quantity stated in the purchase agreement. If the producer who signs a purchase agreement wishes to sell the oats to CCC, he will have a 30-day period during which he must notify the county committee in writing of his intentions to sell. Such period shall end on the applicable loan maturity date or such earlier date as may be prescribed by the Executive Vice President, CCC.

(ii) In the case of eligible oats stored commingled in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of oats he elects to sell to CCC. Such oats will be purchased, on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents at the applicable support rate for the county in which the oats were produced.

(iii) Where the producer has given written notice within the 30-day period prior to the applicable loan maturity date of his intent to sell his oats stored in other than an approved warehouse under purchase agreement to CCC, an inspection of the oats shall be made and a sample taken and submitted for grade analysis within the 30-day period and, in any event, prior to delivery of the oats. If the oats, on the basis of the pre-delivery inspection, are of a quality which meets the requirements for a farm-storage loan, the county committee will issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery. Upon delivery of eligible oats to CCC the oats shall be reinstated, and settlement shall be made at the applicable support rate for the grade and quality of the quantity of oats eligible for delivery on the basis of such reinspection. Such support rate shall be the rate established for the county in which the oats were produced. If oats, which were eligible at the time of the pre-delivery inspection are upon delivery of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible oats as determined at the time of the pre-delivery inspection, less the difference, if any, at the time of delivery, between the market price for the grade and quality of the oats determined by the pre-delivery inspection and the market price of the oats delivered, as determined by CCC: *Provided, however,* That if such oats are sold by CCC in order to determine their market price the settlement value shall not be less than such sales price: *Provided further,* That if, upon delivery, the oats contain mercurial compounds or other substances poisonous to man or animals, such oats shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such oats for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(iv) The producer, whose oats stored in other than an approved warehouse are not of a quality eligible for a loan at the time of predelivery inspection, shall be notified in writing by the county committee that his oats are not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the oats, or otherwise take action to make the oats eligible and insists upon delivery of the oats, the county committee will issue delivery instructions and will determine upon delivery of the oats and before purchase, on the basis of a sample taken at that time, whether or not the oats are actu-

ally of an eligible grade and quality. If the oats are inadvertently accepted by CCC and are of a grade and quality below the eligibility requirements for obtaining a loan the settlement value for such oats shall be the market price as determined by CCC for the quality of the oats delivered. If, however, the oats are of an eligible grade and quality as determined at the time of delivery, settlement shall be made at the applicable support rate for the county in which the oats were produced and for the grade and quality of the quantity eligible for delivery.

(v) The settlement value on any quantity of oats in excess of that stated in the purchase agreement which is delivered to, and inadvertently accepted by CCC, shall be the market price for the grade and quality of the quantity delivered, as determined by CCC.

(vi) When delivery of the oats is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

(vii) The producer may be required to retain the oats stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the oats covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for oats which were of an eligible grade and quality at the time of the pre-delivery inspection, and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the oats are going out of condition or are in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the oats are going out of condition or are in danger of going out of condition and that the oats cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

(viii) If the producer is directed by the county committee to deliver his oats to a point other than his customary shipping point, the producer shall be allowed compensation (as determined by CCC, at not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the oats any distance greater than the distance from the point where the oats are stored by the producer to the customary shipping point.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 401, 63 Stat. 1054, sec. 308, 70 Stat. 206; 15 U. S. C. 714c; 7 U. S. C. 1421)

Issued this 4th day of September 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President
Commodity Credit Corporation.

[F. R. Doc. 56-7192; Filed, Sept. 6, 1956; 8:51 a. m.]

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Flaxseed]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP FLAXSEED LOAN AND PURCHASE AGREEMENT PROGRAM

SETTLEMENT VALUE

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service, published in 21 F. R. 4265 and 4545, and containing the specific requirements of the 1956-crop flaxseed price support program are amended to prescribe additional purchase agreement provisions under the program.

Section 421.2085 (a) is amended by deleting the second subparagraph (2) and inserting a subparagraph (3) which reads as follows:

§ 421.2085 *Settlement*—(a) *Settlement value.* * * *

(3) The provisions of this subparagraph, together with applicable provisions of the 1956 C. C. C. Grain Price Support Bulletin 1, and Supplement 1, Flaxseed, constitute the regulations applicable to purchase agreement operations under the 1956-crop flaxseed price support program.

(i) The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any quantity of the flaxseed to CCC. However, he may sell to CCC any quantity of the eligible flaxseed not in excess of the quantity stated in the purchase agreement. If the producer who signs a purchase agreement wishes to sell the flaxseed to CCC, he will have a 30-day period during which he must notify the county committee in writing of his intentions to sell. Such period shall end on the applicable loan maturity date or such earlier date as may be prescribed by the Executive Vice President, CCC.

(ii) In the case of eligible flaxseed stored commingled in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, or during such period of time thereafter as may be specified by the county committee, submit to the office of county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of flaxseed he elects to sell to CCC. Such flaxseed will be purchased, on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents at the applicable support rate determined in accordance with § 421.1618 (d).

(iii) Where the producer has given written notice within the 30-day period prior to the applicable loan maturity date of his intent to sell his flaxseed stored in other than an approved warehouse under purchase agreement to CCC, an inspection of the flaxseed shall be made and a sample taken and submitted for grade analysis within the 30-day period and, in any event, prior to delivery of the flaxseed. If the flaxseed on the basis of the pre-delivery inspection, is of a quality which meets the requirements for a farm-storage loan, the county committee will issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within the 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery. Upon delivery of eligible flaxseed to CCC the flaxseed shall be reinspected, and settlement shall be made at the applicable support rate for the grade and quality of the quantity of flaxseed eligible for delivery on the basis of such reinspection. Such support rate shall be determined in accordance with § 421.1618 (d). If flaxseed which was eligible at the time of the pre-delivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible flaxseed as determined at the time of the pre-delivery inspection, less the difference, if any, at the time of delivery, between the market price for the grade and quality of the flaxseed determined by the pre-delivery inspection and the market price of the flaxseed delivered, as determined by CCC: *Provided, however,* That if such flaxseed is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price; *Provided further,* That if upon delivery the flaxseed contains mercurial compounds or other substances poisonous to man or animals, such flaxseed shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such commodity for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(iv) The producer, whose flaxseed stored in other than an approved warehouse is not of a quality eligible for a loan at the time of the pre-delivery inspection, shall be notified in writing by the county committee that his flaxseed is not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the flaxseed, or otherwise take action to make the flaxseed eligible and insists upon delivery of the flaxseed, the county committee will issue delivery instructions and will determine upon delivery of the flaxseed and before purchase, on the basis of a sample taken at that time, whether or not the flaxseed is actually of an eligible grade and quality. If the flaxseed is inadvertently accepted by CCC and is of a grade and quality below the eligibility

requirements for obtaining a loan, the settlement value for such flaxseed shall be the market price as determined by CCC for the quality of the flaxseed delivered. If, however, the flaxseed is of an eligible grade and quality as determined at the time of delivery, settlement shall be made at the applicable support rate, determined in accordance with § 421.1618 (d), for the grade and quality of the quantity eligible for delivery.

(v) The settlement value on any quantity of flaxseed in excess of that stated in the purchase agreement which is delivered to, and inadvertently accepted by CCC, shall be the market price for the grade and quality of the quantity delivered, as determined by CCC.

(vi) When delivery of the flaxseed is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

(vii) The producer may be required to retain the flaxseed stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any lose in quantity or quality of the flaxseed covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for flaxseed which was of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the flaxseed is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the flaxseed is going out of condition or is in danger of going out of condition and that the flaxseed cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

(viii) The provisions of § 421.1618 (f) shall be applicable in cases where a producer is ordered by the county committee to deliver his flaxseed to a shipping point of greater distance than his customary shipping point.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054, as amended, sec. 308, 70 Stat. 206; 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 4th day of September 1956.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-7195; Filed, Sept. 6, 1956; 8:51 a. m.]

Subchapter C—Export Programs

PART 481—WHEAT AND WHEAT-FLOUR EXPORT PAYMENT PROGRAM (IWA)

SUBPART—TERMS AND CONDITIONS OF 1956–57 PROGRAM

PROGRAM PERIOD

Section 481.731 of the Terms and Conditions of the 1956–57 Wheat and Wheat-Flour Export Payment Program (21 F. R. 4645) issued on June 21, 1956, as amended, is further amended to read as follows:

§ 481.731 *Program period.* Sales entered into after the effective date of this offer and not later than September 3, 1956, with respect to wheat, or not later than July 31, 1957, with respect to flour, for recording against the 1956–57 Wheat Agreement guaranteed quantities are eligible for payment under this offer.

(Secs. 2, 3, 63 Stat. 945, as amended, 946; 7 U. S. C. 1641, 1642)

This amendment shall become effective on September 4, 1956, at 12:01 a. m., e. d. t.

Issued this 31st day of August 1956.

[SEAL] WALTER C. BERGER,
Acting Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-7179; Filed, Sept. 6, 1956; 8:47 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 947—MILK IN FALL RIVER, MASS., MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act", and of the order, as amended (7 CFR Part 947), regulating the handling of milk in the Fall River, Massachusetts, marketing area, hereinafter referred to as the "order", it is hereby found and determined that:

a. The provisos in §§ 947.50 and 947.51 and the entire § 947.53 will not tend to effectuate the declared policy of the act for the period after August 31, 1956.

Provisos in §§ 947.50 and 947.51 and entire § 947.53 provide that when rail tariff on milk and cream is increased or decreased the Class I and Class II price for plants located not more than 100 miles from Fall River shall be increased or decreased to the extent of the increase or decrease in the rail tariff for transportation of milk or cream respectively. This provision was based on the concept that any change in the rail tariff on milk and cream would be made only in terms of the rate applying to shipments from specific 10-mile zones via rail mileage. However, New England Joint Tariff M No. 8 effective September 1, 1956, has substituted point-to-point rates in place of the traditional zone rates. The differences between the old and new rates vary considerably from any uniformity of change by 10-mile zones, and by their very nature their effect cannot be uniformly reflected in the order's zone table.

b. Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof, are impracticable, unnecessary, and contrary to the public interest for reason stated under a above and in that:

1. The information upon which this action is based did not become available in time for such compliance.

2. This suspension order does not require persons affected substantial or extensive preparation prior to its effective date.

Therefore, good cause exists for making this order effective September 1, 1956.

It is therefore ordered, That the provisos of §§ 947.50, 947.51, and entire § 947.53 be and they are hereby suspended during the period from September 1, 1956 to the effective date of any amendment made to the order as a result of a public hearing.

Done at Washington, D. C., this 31st day of August 1956.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 56-7177; Filed, Sept. 6, 1956; 8:47 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 84]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—VESICULAR EXANTHEMA

CHANGES IN AREAS QUARANTINED

Pursuant to the provisions of sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123, 125), sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111–113, 120), and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117), § 76.27, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations (21 F. R. 3, 417, 786, 1165, 1461, 1743, 2230, 2611, 3005, 3923, 4339, 5043, 5435, 5861), which quarantines certain areas because of vesicular exanthema, a contagious, infectious, and communicable disease of swine, is hereby further amended in the following respects:

1. Subdivision (vii) of subparagraph (8) of paragraph (c), relating to Worcester County in Massachusetts, is amended to read:

(vii) That part of the Town of Oxford lying north of Dand Road, south of Federal Hill Road, east of Brown Street, and west of Hudson Street; and that part of the Town of Oxford lying north of Federal Hill Road, south of Depot Road, east of State Route No. 12, and west of Millbury Street.

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes a certain area in Massachusetts from the areas heretofore quarantined because of vesicular exanthema. Hereafter, the restrictions pertaining to the interstate movement of swine, and carcasses, parts and offal of swine, from or through quarantined areas, contained in 9 CFR, 1955 Supp., Part 76, Subpart B, as amended, will not apply to such area. However, the restrictions pertaining to such movement from non-quarantined areas, contained in said Subpart B, as amended, will apply thereto.

The amendment relieves certain restrictions presently imposed, and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111–113, 117, 120, 123, 125)

Done at Washington, D. C., this 31st day of August 1956.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 56–7197; Filed, Sept. 6, 1956; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

Subchapter E—Air Navigation Regulations

[Amdt. 4]

PART 612—AERONAUTICAL FIXED COMMUNICATIONS

ACCEPTANCE OF RESERVATION MESSAGES PERTAINING TO FLIGHTS SCHEDULED TO DEPART WITHIN 72 HOURS

Under the present provisions of § 612.2 (a) (8), reservation messages originated by aircraft operating agencies to secure the space required in transport aircraft scheduled to depart within 72 hours after the message is filed are accepted for transmission over Government-operated facilities without restriction. This amendment will limit the acceptance of such messages to those cases where adequate non-Government communication facilities are not available. A proprietary function of the Government is involved. Therefore, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

1. Section 612.2 (a) (8) is rescinded.

2. Section 612.2 (c) is amended by deleting in subparagraph (1) the words "and (8)" and by adding a new subparagraph to read:

(11) Reservation messages originated by aircraft operating agencies to secure the space required in transport aircraft.

3. Section 612.3 is amended by deleting the words "(a) (8) or", in the last sentence of the first paragraph.

4. Section 612.5 is amended by deleting the words "(a) (8) and".

(Sec. 205, 52 Stat. 984, as amended, sec. 10, 62 Stat. 453; 49 U. S. C. 425, 1159. Interpret or apply secs. 301, 302, 52 Stat. 985, sec. 606, 56 Stat 1067; 49 U. S. C. 451, 452, 5 U. S. C. 606)

This amendment shall become effective September 15, 1956.

[SEAL] JAMES T. PYLE,
Acting Administrator
of Civil Aeronautics.

[F. R. Doc. 56–7164; Filed, Sept. 6, 1956; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS CLAIMS

MISCELLANEOUS AMENDMENTS

1. In § 3.1, paragraph (e) is amended to read as follows:

§ 3.1 *Persons included in the acts in addition to commissioned officers and enlisted men.* * * *

(e) *Commissioned officers, Public Health Service.* Officers of the Public Health Service who were detailed for duty with the Army or Navy are included as officers in the active service. On or after November 11, 1943, commissioned officers of the Public Health Service, regular and reserve, who (1) are detailed for duty with the Army, Navy, or Coast Guard; (2) are serving in time of war outside the continental limits of the United States or in Alaska, regardless of whether the disability or death was suffered prior or subsequent to November 11, 1943: *Provided, however,* That benefits may not be awarded for any period prior to November 11, 1943; or (3) perform active service in time of war or of emergency involving the national defense (Pub. Law 492, 84th Cong.) and following the issuance of an Executive order declaring the commissioned corps of the Public Health Service a part of the military forces of the United States are also included. In regard to subparagraph (3) of this paragraph, the Executive order was published on June 29, 1945, effective July 29, 1945. Hence, on and after the latter date and to and including July 3, 1952, the above-described commissioned officers of the Public Health Service, with respect to active service performed, shall be considered as in active military or naval service and included within the acts administered by the Veterans Administration: *Provided, however,* That if disability was incurred after July 25, 1947, and prior to May 11, 1951, the rates payable and criteria are those provided by Part II, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12A). On and after May 11, 1951, the rates payable and criteria are those provided by Part I, Veterans Regulation 1 (a), as amended, including those who incurred disability after June 26, 1950. Commissioned officers of the Public Health Service retired for any cause during the period from July 29, 1945, to July 3, 1952, inclusive, are in the same category as retired officers of the Armed Forces with respect to benefits payable under the laws administered by the Veterans Administration and are therefore subject to the provisions of § 3.300.

* * * * *

(Sec. 1, 46 Stat. 847, sec. 4, 48 Stat. 9, 50 Stat. 305, sec. 304, 52 Stat. 1181, as amended, 53 Stat. 813, sec. 4, 54 Stat. 864, as amended, sec. 1,211, 55 Stat. 598, 12, 56 Stat. 730, as amended, 1072, sec. 2, 56 Stat. 1033, sec. 3, 10, 57 Stat. 371, 556, sec. 1, 2, 58 Stat. 324, sec. 2, 3, 212, 58 Stat. 599, 689, 60 Stat. 223, Vet. Reg. 1 (a), as amended, Vet Reg. 10, as amended, 65 Stat. 40, 68 Stat. 360, 789, 70 Stat. 116; 5 U. S. C. 133g, note, 10 U. S. C. 336, 81 note, 14 U. S. C. 311, 33 U. S. C. 855a, 34 U. S. C. 855c, 855c–1, 857a. 38 U. S. C. 238, 238c–e, 704, 730, 745, ch. 12A, 42 U. S. C. 213, 50 U. S. C. App. 1553, 1591, 1592, E. O. 8929, 6 F. R. 5581, 3 CFR 1943 Cum. Supp.; E. O. 9575, 10 F. R. 7895, E. O. 9666, 11 F. R. 1, 3 CFR 1945 Supp.; E. O. 10349, 17 F. R. 3769; E. O. 10356, 17 F. R. 4967, E. O. 10362, 17 F. R. 5413, E. O. 10367, 17 F. R. 5929, 3 CFR 1952 Supp.)

2. In § 3.216, paragraph (c) is amended to read as follows:

§ 3.216 *Application for increase based upon changed physical condition.* * * *

(c) *Physical examination reports, clinical records, and transcripts of records received from State, county, municipal, and recognized private institutions.* Generally, physical examination reports, clinical records, and transcripts of records from State, county, municipal, and recognized private institutions relative to veterans will be accorded the same consideration for the purpose of rating claims for compensation or pension as though the records were received from a Veterans Administration field station. These records, however, must present the essentials upon which ratings are to be founded, that is, the disabling conditions must be adequately identified; sufficient findings must be reported to permit proper evaluation of the condition and records pertaining to veterans hospitalized at Veterans Administration expense must be certified by Chief Medical Officers or their physician designees. Section II of the annual supplement, "Administrators Guide Issue" of "Hospitals —The Journal of the American Hospital Association," contains the only current list of acceptable hospitals located in the United States, its territories and possessions. These hospitals are accredited by the Joint Commission on Accreditation of Hospitals or are recognized as having met eligibility standards for registration established previously by the American Medical Association. However, all acceptable hospitals are not listed inasmuch as this listing is a voluntary procedure and no hospital is required to apply for inclusion. If the hospital in which the veteran was examined or treated is not listed in the most recent issue of this publication, the Chief Medical Officer or his physician designee will be requested to advise whether the hospital is acceptable for the care and treatment of Veterans Administration beneficiaries. Depending upon the advice of the Chief Medical Officer or his physician designee, the report will be accepted or corroborative examination by the Veterans Administration re-

quested. It is to be understood that such records, in those instances where maintenance is not at the expense of the Veterans Administration, should not be accepted as claims for increase if they are routinely submitted, but only where there is an indication that they are being submitted for the purpose of claiming increased benefits. Even when submitted for such purpose, where the hospitalization is not at Veterans Administration expense, the effective date of benefits will be the date of receipt by the Veterans Administration of the report of hospitalization constituting the claim for increase or to reopen.

3. In § 3.358, paragraph (a) is amended to read as follows:

§ 3.358 *Public Law 212, 72d Congress, as amended.* (a) Effective July 1, 1932, section 212 of Public Law 212, 72d Congress, as amended, which is permanent legislation, prohibits the concurrent payment of retirement pay (other than that payable under Title III, Public Law 810, 80th Congress (decision Court of Claims—Tanner vs. United States)) and salary from the United States Government or the Municipal Government of the District of Columbia, or any corporation, the majority of the stock of which is owned by the United States, except under certain specified conditions. However, such prohibition is inapplicable if the disability for which retired was incurred in combat with an enemy of the United States. The above restriction is also inapplicable on and after July 15, 1940, if the disability for which retired resulted from an explosion of an instrumentality of war in line of duty and on and after January 1, 1951, if such disability was caused by an instrumentality of war in line of duty. A finding by the Board of Veterans Appeals that a disability is the direct result of the performance of duty, or that on all the evidence of record it is clearly shown that the disability for which retirement was granted was incurred in or aggravated by active service in fact in line of duty without benefit of any statutory or regulatory presumption of any kind, does not of itself meet the requirements of Public Law 212. There must be a specific finding of combat incurrence of a disability for which retirement was granted or a specific finding that the disability resulted from an explosion of an instrumentality of war or was caused by an instrumentality of war in line of duty during enlistment or employment as provided in Part I, paragraph I, Veterans Regulation 1 (a), (38 U. S. C. ch. 12A). If a retired officer is also an employee of the United States within the purview of section 212, Public Law 212, 72d Congress, as amended, and his retired pay is at a rate equal to or in excess of $10,000 per annum, he must elect which form of payment he desires during the period of such incumbency. If the rate of the retired pay and the rate of civilian compensation, when combined, are equal to or less than $10,000 per annum, he is entitled to both. On the other hand, if the civilian compensation is at a rate of less than $10,000 and the retired pay is also at a rate of less than $10,000, he is entitled to the full amount of his civilian pay and to such additional amount from the retired pay as will make a total payment annually of $10,000 (Comptroller General—June 25, 1942, B-24989—Public Law 239, 84th Cong.). If the retired pay is at a rate of less than $10,000 and the civilian pay is at a rate in excess of $10,000, there is no right of election, the civilian pay must be paid, and even though it is a part-time position and the salary actually paid is less than $10,000 per annum, there is no right to any portion of the retired pay (Comptroller General—Aug. 17, 1932, 12 Comp. Gen. 256). The claim of a part-time employee should be adjudicated on the "rate" of pay for the position rather than on the part-time pay received. It is, therefore, necessary to ascertain from the department or establishment where the veteran is employed, the annual rate of pay for the position held. Section 212, Public Law 212, 72d Congress, as amended, is applicable to persons receiving fees from the Federal Government only when such fees are paid in connection with employment in "a civilian office or position, appointive or elective, under the United States Government or Municipal Government of the District of Columbia, or under corporation, the majority of the stock of which is owned by the United States." However, when the fees are based on services furnished under contract, i. e., when the person receiving same is not an "employee," section 212, Public Law 212, 72d Congress, as amended, is not for application. For example, employment by the Veterans Administration of former officers of the Armed Forces retired for disability as consultants upon a fee basis pursuant to section 14 (a) of Public Law 293, 79th Congress, is not in contravention of section 212 of Public Law 212, 72d Congress, inasmuch as such consultants do not occupy an "office or position" within the meaning of those terms as used in the cited statute, notwithstanding that the term "compensation" as used therein is sufficiently broad to include fees (Comp. Gen. B-62616, Jan. 17, 1947).

(Sec. 212, 47 Stat. 406, as amended, sec. 608, 59 Stat. 305, secs. 301–313, 62 Stat. 1087, sec. 2, 69 Stat. 498; 5 U. S. C. 59a, 948, 10 U. S. C. 1036–1036i, 1036 note, 34 U. S. C. 440h–440q, 440h note)

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707)

This regulation is effective September 7, 1956.

[SEAL] JOHN S. PATTERSON,
Deputy Administrator.

[F. R. Doc. 56-7189; Filed, Sept. 6, 1956; 8:49 a. m.]

TITLE 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 202—MINIMUM WAGE DETERMINATIONS

DETERMINATION OF PREVAILING MINIMUM WAGES FOR VARIOUS INDUSTRIES

On February 29, 1956, a hearing was held to determine what is the prevailing minimum wage in each of several named industries and parts of industries for which there is a prevailing minimum wage determination of less than $1.00 per hour under section 1 (b) of the Walsh-Healey Public Contracts Act. Upon the basis of the record compiled at the hearing, the Secretary of Labor published a proposed determination of prevailing minimum wages (21 F. R. 5696—July 28, 1956), in which prevailing minimum wages for all of those industries and parts of industries are found to be $1.00 per hour. Interested parties were allowed 15 days in which to submit written exceptions to the proposed determination. No exceptions have been received. The findings and conclusions and the reasons and bases therefore are set out in the Notice of Proposed Determination of Prevailing Minimum Wages for Various Industries (21 F. R. 5696), are hereby adopted for the purpose of this determination.

Accordingly, pursuant to authority vested in me by sections 1 (b) and 6 of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. 35), Part 202 of Title 41, Code of Federal Regulations (41 CFR Part 202) is amended as follows:

1. In §§ 202.2 (b) Cotton Garments, 202.3 (b) Men's Neckwear, 202.4 (b) Rainwear, 202.5 (b) Knitwear and Woven Underwear, 202.6 (b) Seamless Hosiery, 202.8 (b) Shoe Manufacturing, 202.10 (b) Handkerchiefs, 202.16 (b) Vitrified China, 202.19 (b) Luggage and Leather Goods, 202.20 (b) Fireworks, 202.21 (b) Wool Carpet, 202.22 (b) Tags, 202.26 (b) Tobacco, 202.27 (b) Furniture, 202.29 (b) Specialty Accounting, 202.38 (b) Die Casting, 202.40 (b) Evaporated Milk, 202.42 (b) Leather Manufacturing, 202.45 (b) Aviation Textile, 202.46 (b) Gloves and Mittens, delete the number and words "not less than 75 cents per hour" and insert in place thereof the symbol, number and words "$1.00 per hour".

2. Sections 202.2 (c) Cotton Garments, 202.3 (c) Men's Neckwear, 202.4 (c) Rainwear, 202.5 (c) Knitwear and Woven Underwear, 202.6 (c) Seamless Hosiery, 202.8 (c) Shoe Manufacturing, 202.9 (c) Dimension Granite, 202.10 (c) Handkerchiefs, 202.11 (c) Men's Hats, 202.16 (c) Vitrified China, 202.18 (c) Pressed and Blown Glass, 202.19 (c) Luggage and Leather Goods, 202.20 (c) Fireworks, 202.21 (c) Wool Carpet, 202.22 (c) Tags, 202.26 (c) Tobacco, 202.27 (c) Furniture, 202.28 (c) Drugs and Medicine, 202.29 (c) Specialty Accounting, 202.31 (c) Soap, 202.32 (c) Fertilizer, 202.35 (c) Cement, 202.36 (c) Structural Clay, 202.37 (c) Uniform and Clothing, 202.38 (c) Die Casting, 202.39 (c) Dental Goods, 202.40 (c) Evaporated Milk, 202.42 (c) Leather Manufacturing, 202.45 (c) Aviation Textile, 202.46 (c) Gloves and Mittens, and 202.48 (c) Surgical Instruments, are amended to read as follows:

(c) *Tolerances.* Learners and apprentices may be employed at wages less than $1.00 an hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The

Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

3. Section 202.11 (b) is amended to read as follows:

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the men's hat and cap industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis.

4. Section 202.18 (b) is amended by deleting the number and words "83½ cents per hour" and inserting in place thereof the symbol, number and words "$1.00 per hour".

5. Section 202.28 (b) is amended to read as follows:

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the drug, medicine, and toilet preparations and cosmetics industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis.

6. Section 202.31 (b) is amended by deleting the number and words "95 cents per hour" and inserting in place thereof the symbol, number and words "$1.00 per hour".

7. Section 202.33 (b) (2) is amended by deleting the number and words "99 cents an hour" and inserting in place thereof the symbol, number and words "$1.00 per hour".

8. Section 202.33 (c) is amended to read as follows:

(c) *Tolerances.* (1) Beginners (probationary workers) as defined in this paragraph may be employed at hourly wage rates not lower than $1.065 per hour in the paper and pulp industry (other than paper bag branch) arrived at either on a time or piece-rate basis. A beginner or probationary worker for the purpose of this determination is an employee who has less than 160 hours experience in the plant in which he is employed.

(2) Learners and apprentices may be employed in the paper bag branch at wages less than $1.00 an hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

9. Section 202.37 (b) is amended to read as follows:

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the uniform and clothing industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis.

10. Section 202.39 (b) is amended to read as follows:

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the dental goods and equipment manufacturing industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis.

11. Section 202.41 (b) is amended to read as follows:

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the paint and varnish industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 an hour arrived at either on a time or piece-rate basis in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, and the minimum wage shall be $1.05 per hour arrived at either on a time or piece-rate basis in the remaining States of the United States and the District of Columbia.

12. Section 202.41 (c) is amended to read as follows:

(c) *Tolerances.* (1) Where $1.05 per hour is the minimum wage, beginners or probationary workers as defined in this paragraph may be employed for 480 hours at $1.00 per hour arrived at either on a time or piece-rate basis. A beginner or probationary worker for the purpose of this section is a person who has less than 480 hours experience in the plant in which he is employed.

(2) Learners and apprentices may be employed in that part of the paint and varnish industry located in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia at wages less than $1.00 per hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division, Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

13. Section 202.43 (b) (2) is amended by deleting the number and words "87 cents an hour" and inserting in place thereof the symbol, number and words "$1.00 per hour".

14. Section 202.43 (c) (1) (ii) is amended to read as follows:

(ii) In the performance of contracts for the products of the cotton, silk, and synthetic textile branch of the textile industry, learners may be paid a subminimum rate of 92 cents per hour, unless experienced workers in the same plant and occupations are paid on a piece-rate basis, in which case learners must be paid the same piece rates paid to experienced workers, and earnings, based upon those piece rates, if such earnings are in excess of 92 cents per hour.

15. Section 202.43 (c) (2) is amended to read as follows:

(2) Learners and apprentices may be employed in other than the cotton, silk, and synthetic textile branch of the textile industry at wages less than $1.00 per hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

16. Section 202.44 (b) (1) is amended to read as follows:

(1) The minimum wage for persons employed in the manufacture or furnishing of products of the industrial and refined basic chemical products branch of the chemical and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in the States of Maryland, Virginia, North Carolina, South Carolina, Tennessee, Arkansas, Mississippi, Alabama, Georgia, Florida, and the District of Columbia, and the minimum wage shall be $1.15 per hour arrived at either on a time or piece-rate basis in the remaining States of the United States.

17. Section 202.44 (b) (2) is amended to read as follows:

(2) The minimum wage for persons employed in the manufacture or furnishing of products of the cleaning and polishing preparations, insecticides and fungicides, and miscellaneous chemical branch of the chemical and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in the 48 States and the District of Columbia.

18. Section 202.44 (c) is amended to read as follows:

(c) *Tolerances.* (1) Where $1.15 or $1.40 per hour is the minimum wage, beginners as defined in this paragraph may be employed for 320 hours at a rate not more than 5 cents an hour below the applicable minimum wages. A beginner for the purpose of this section is a person who has less than 320 hours of experience in the industry. Any previous

employment in the industry must be subtracted from the 320-hour period during which beginners may be employed at rates below the minimum.

(2) Where $1.00 per hour is the minimum wage, learners and apprentices may be employed at wages less than $1.00 per hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

19. Section 202.48 (b) is amended by deleting the number and words "90 cents an hour" and inserting in place thereof the symbol, number and words "$1.00 per hour".

20. Section 202.9 (b) is amended to read as follows:

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the dimension granite industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in each State where the industry has its plants.

21. Section 202.32 (b) is amended to read as follows:

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the fertilizer industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in each State where the industry has its plants.

22. Section 202.35 (b) is amended to read as follows:

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the cement industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in each State where the industry has its plants.

23. Section 202.36 (b) is amended to read as follows:

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the structural clay products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in each State where the industry has its plants.

(Sec. 4, 49 Stat. 2038; 41 U. S. C. 38. Interpret or apply sec. 1, 49 Stat. 2036, as amended; 41 U. S. C. 35)

Effective date. These amendments shall be effective and the minimum wages herein established shall apply to all contracts subject to the Public Contracts Act bids for which are solicited or negotiations otherwise commenced on or after October 7, 1956.

Signed at Washington, D. C., this 31st day of August 1956.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 56-7191; Filed, Sept. 6, 1956; 8:51 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Subchapter D—Grants

PART 55—GRANTS FOR WATER POLLUTION CONTROL

SUBPART A—GRANTS FOR WATER POLLUTION CONTROL PROGRAMS

Notice of proposed rule making and public rule making proceedings have been omitted in the issuance of the following amendment of this part which relates solely to grants.

1. The title of Part 55 is amended to read as set forth above and Subpart A is hereby amended to read as set forth below:

Sec.
55.1 Definitions.
55.2 Basis of allotments to States and interstate water pollution control agencies.
55.3 Allotments; estimates; time of making and duration.
55.4 Plans; content; mode of submittal; time of submittal.
55.5 Amount of Federal grant funds payable.
55.6 Payments to states and interstate agencies.
55.7 Audit.
55.8 Change in status of State water pollution control agency or interstate agency; disposal of balances.

AUTHORITY: §§ 55.1 to 55.8 issued under sec. 10, 70 Stat. 506. Interpret or apply sec. 5 (f) 70 Stat. 500.

§ 55.1 *Definitions.* All terms used in this subpart which are defined in the Federal Water Pollution Control Act and are not defined in this section shall have the meaning given to them in such act. As used in this subpart, the following terms shall have the meaning indicated herein below:

(a) "Federal Act" means the Federal Water Pollution Control Act (70 Stat. 498, et seq.).

(b) "Public Health Service" means the Public Health Service in the Department of Health, Education, and Welfare.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "State water pollution control agency" means the State health authority, except that in the case of any State in which there is a single State agency, other than the State health authority, charged with the responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency.

(e) "Interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution of waters.

(f) "State" means a State, the District of Columbia, Hawaii, Alaska, Puerto Rico and the Virgin Islands.

(g) "Fiscal year" means a twelve-month period beginning on July 1.

(h) "Population" means, with respect to any State, the most recent official estimates of the Department of Commerce available on January 1 preceding the fiscal year for which funds are appropriated pursuant to section 5 of the Federal Act.

(i) "Population density" means the population of the State divided by the area of the State in square miles, except that each of the thirteen States having the greatest population density shall be deemed to have a population density equal to the State having the least population density of such thirteen States.

(j) "Per capita income" means, with respect to any State, the average of the per capita income of such State for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce; except that, in the absence of such satisfactory data, the per capita income of Alaska shall be deemed to equal the average per capita income of all the States in the continental United States and the per capita incomes of (1) Puerto Rico and (2) the Virgin Islands shall be deemed to equal the per capita income of the State having the lowest per capita income of the continental United States.

§ 55.2 *Basis of allotments to States and interstate water pollution control agencies.* (a) The funds appropriated pursuant to section 5 of the Federal Act for any fiscal year for expenditures for grants to States to assist them in meeting the cost of establishing and maintaining adequate measures for the prevention and control of water pollution shall be allotted among the several States on the basis of $12,000 for each State, in recognition of the fact that a water pollution control problem exists in every State caused by the discharge of untreated or inadequately treated sewage or other wastes into the waters of such State, and the balance on the basis of the following factors:

(1) ⅔ in the ratio that the product of the population of each State and the reciprocal of its per capita income bears to the sum of the corresponding products for all States.

(2) ⅙ on the basis of the ratio of the population density of a State to the population density of all the States.

(3) ⅙ on the basis of the ratio of the number of industrial establishments discharging industrial wastes in each State to the number of such establishments in all the States. The number of such establishments shall be determined on the basis of the latest available data provided by the Department of Commerce.

(b) The funds appropriated pursuant to section 5 of the Federal Act for any fiscal year for expenditures for grants to

interstate agencies to assist them in meeting the cost of establishing and maintaining adequate measures for the prevention and control of water pollution shall be allotted among the several interstate agencies on the basis of the following factors:

(1) ⅔ in the ratio that the product of the population of the area served by the interstate agency and the reciprocal of the average per capita income of the interstate agency for the three most recent consecutive years bears to the sum of the corresponding products for all the interstate agencies. For this purpose, per capita income of an interstate agency shall mean the total gross income of all the States comprising such interstate agency divided by the total population of all the States comprising such interstate agency.

(2) ⅙ on the basis of the ratio of the average of the population densities of the States comprising each interstate agency area to the sums of the average of the population densities of each interstate agency area.

(3) ⅙ on the basis of the ratio of the number of industrial establishments discharging industrial wastes in the States comprising the interstate agency to the number of such establishments in all the interstate agency areas. The number of such establishments shall be determined on the basis of the latest available data provided by the Department of Commerce.

§ 55.3 *Allotments; estimates; time of making and duration.* (a) Prior to the beginning of each fiscal year the Surgeon General shall prepare and make available to States and interstate agencies an estimated schedule of the amounts which it is expected will be allotted to each during the fiscal year from estimated appropriations.

(b) Allotments to States and interstate agencies for the first six months shall be made prior to the beginning of the fiscal year or as soon thereafter as practicable and shall equal not less than 60 per centum nor more than 70 per centum of the total sum determined to be available for allotment during the fiscal year.

(c) At the end of the second quarter, or as soon thereafter as practicable, the amounts of allotments for the first six-month period which have not been certified for payment to the respective States and interstate agencies pursuant to § 55.5 shall become available for reallotment among the States and interstate agencies in the same manner as monies which have not previously been allotted.

(d) Allotments to States and interstate agencies for the remaining six months shall be made prior to the beginning of the third quarter or as soon thereafter as practicable, and shall equal the total sum remaining unpaid and unallotted from the amount available for allotment during the fiscal year.

(e) The respective State water pollution control agencies and interstate agencies shall be notified of the amounts of allotments and reallotments and of the period for which they are made.

§ 55.4 *Plans; content; mode of submittal; time of submittal.* (a) For each fiscal year each State and interstate agency making application for grants under section 5 of the Federal Act shall submit a plan to the Surgeon General in accordance with procedures and on forms prescribed by the Surgeon General. Such plan shall:

(1) Designate the State water pollution control agency or interstate agency responsible for the administration or supervision of administration of the plan;

(2) Contain a statement that such agency will make such reports in such form and containing such information as the Surgeon General or his designee may from time to time reasonably require to carry out his functions under this Act;

(3) Set forth the policies and methods to be followed in carrying out the plan and its administration, describe the organization and proposals for conducting and extending or improving the State or interstate water pollution control and prevention program and any proposals for training personnel in water pollution control work. State plans shall contain criteria for determining whether the construction of proposed treatment works is in conformity with the plan.

(4) Provide such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan. Such methods will include a description of the procedures which the State will use in determining on the basis of objective criteria the expenditures attributable to water pollution control activities conducted in carrying out the approved plan.

(b) A plan shall be submitted by each State or interstate agency making application for grants under section 5 of the Federal Act prior to the period to which it relates: *Provided,* That exceptions to this provision may be made by the Surgeon General or his designee in the case of plans submitted for the fiscal year 1957 and when necessary to meet emergencies.

§ 55.5 *Amount of Federal grant funds payable.* (a) From the allotment available therefor for each fiscal year, each State and each interstate agency for which a plan has been approved by the Surgeon General, shall be entitled to receive an amount equal to its Federal share of the cost of carrying out its approved plan, including the cost of training personnel for State and local water pollution control work and administering the plan.

(b) For any State the Federal share shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that the Federal share shall in no case be more than 66⅔ per centum or less than 33⅓ per centum, and the Federal share for Hawaii and Alaska shall be 50 per centum, and for Puerto Rico and the Virgin Islands shall be 66⅔ per centum.

(c) For any interstate agency the "Federal share" shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the average per capita income of the States comprising such interstate agencies bears to the per capita income of the continental United States (excluding Alaska), except that the Federal share in no case shall be more than 66⅔ per centum or less than 33⅓ per centum and shall be promulgated on the basis of the same data used for determining the "Federal share" for any State.

§ 55.6 *Payments to States and interstate agencies.* (a) Payments from allotments to States and interstate agencies shall be certified to the Secretary of the Treasury only after a plan has been approved. Payments from such allotments shall not exceed the allotment to a State or interstate agency or the total Federal share of the estimated expenditures necessary for carrying out the plan, whichever is less.

(b) Subject to the foregoing limitations, payments to States and interstate agencies shall be made as follows:

(1) Payment shall be made for each quarter based upon an application for funds showing the estimated requirements for such quarter. Such payment shall be decreased or increased by the amount that prior payments exceed or are less than the Federal share of the total expenditures for the program.

(2) Payments shall not be certified unless an application for payment and all plans, reports, and documents required by this part have been received.

(3) Supplemental payment in any quarter may be certified upon submission of an application therefor accompanied by satisfactory justification.

§ 55.7 *Audit.* Audit of the expenditures for the activities described in the plans may be made after prior consultation with the States or interstate agencies. Records, documents and information available to the State water pollution control agencies and interstate agencies pertinent to the audit shall be accessible for purposes of the audit.

§ 55.8 *Change in status of State water pollution control agency or interstate agency; disposal of balances.* In the event that a State water pollution control agency shall cease to qualify as such, the unobligated balance of any amounts paid to the State shall be transferred to such other agency of the State which qualifies and is designated in the approved State plan as the State water pollution control agency, and if an interstate agency ceases to qualify as such the unobligated balance of any amount paid to such interstate agency shall be transferred as determined by the Surgeon General to the successor, if any, of such interstate agency or shall be returned to the Treasury of the United States.

2. Subpart B is hereby revoked.

3. These amendments shall become effective upon publication in the FEDERAL REGISTER.

Dated: August 22, 1956.

[SEAL] L. E. BURNEY,
Surgeon General.

Approved: August 31, 1956.

HEROLD C. HUNT,
Acting Secretary.

[F. R. Doc. 56-7186; Filed, Sept. 6, 1956; 8:49 a. m.]

TITLE 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 113—FINANCIAL ASSISTANCE FOR CURRENT EXPENDITURES AFTER JUNE 30, 1956, OF LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR THE FREE PUBLIC EDUCATION OF CERTAIN CHILDREN RESIDING ON FEDERAL PROPERTY

Part 113, is added to 45 CFR, Chapter I, and establishes regulations for the filing and processing of applications for financial assistance for current expenditures, after June 30, 1956, of local educational agencies in areas affected by Federal activities and for the making of arrangements by the Commissioner of Education to provide free public education for certain children residing on Federal property, under Public Law 874, 81st Congress (64 Stat. 1100), as amended by Public Law 170, 83d Congress (67 Stat. 250), Public Law 248, 83d Congress (67 Stat. 530), Public Law 204, 84th Congress (69 Stat. 435), Public Law 221, 84th Congress (69 Stat. 485), Public Law 382, 84th Congress (69 Stat. 713), Public Law 949, 84th Congress (70 Stat. 970), and Public Law 896, 84th Congress (70 Stat. 909).

Subpart A—Definitions

Sec.
113.1 Definitions.

Subpart B—Filing Applications and Reports and Computing and Making Payments to Applicants

113.2 Scope.
113.3 Basis for assistance; administrative policy.
113.4 Applications.
113.5 Final date for filing applications for financial assistance from funds appropriated for the fiscal year 1954 and thereafter.
113.6 Applications under sections 2, 3, and 4 received after deadline not considered for payment.
113.20 Approval of applications.
113.21 Payments.
113.22 Payments of financial assistance under sections 2, 3, and 4 from fiscal year appropriations.
113.23 Interim reports.
113.24 Reports from other Federal agencies.
113.25 Necessity and effect of final reports by applicants under section 2, 3, or 4.
113.50 Determination of most nearly comparable school districts.
113.51 Computation of local contribution rate in continental United States.
113.52 Increase in or special local contribution rate.
113.53 Notice required of changes in boundaries, classification, and governing authority of applicants.
113.54 Provisions not exhaustive of jurisdiction of the Commissioner.

Subpart C—[Reserved]

Subpart D—Arrangements Under Section 6 of the Act

113.75 Proposal for arrangements for certain children residing on Federal property.
113.76 Determination by the Commissioner.
113.77 Arrangements under section 6 (b) and section 6 (c).
113.78 Arrangements.
113.79 Expenditures.
113.80 Reports.
113.81 Termination of arrangements.

AUTHORITY: §§ 113.1 to 113.81 issued under sec. 7, 64 Stat. 1107; 20 U. S. C. 242. Interpret or apply secs. 1-6, 8, 9, 64 Stat. 1100-1108, as amended, sec. 10, 67 Stat. 536, as amended; 20 U. S. C. 236-241, 243-245.

SUBPART A—DEFINITIONS

§ 113.1 *Definitions.* All terms used in this part which are defined in the act and not defined in this section shall have the meaning given to them in the act. As used in this part, and for the purposes of this part and determinations under the act, the following terms shall have the meaning indicated in paragraphs (a) to (j) of this section:

(a) *Act.* "The act" means Public Law 874, 81st Congress (64 Stat. 1100); as amended by Public Law 170, 83d Congress (67 Stat. 250); Public Law 248, 83d Congress (67 Stat. 530); Public Law 204, 84th Congress (69 Stat. 435); Public Law 221, 84th Congress (69 Stat. 435); Public Law 382, 84th Congress (69 Stat. 713); Public Law 949, 84th Congress (70 Stat. 970); and Public Law 896, 84th Congress (70 Stat. 909).

(b) *The Commisisoner.* "The Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare, or his delegatee.

(c) *Applicant.* "Applicant" means any local educational agency which files an application for financial assistance under sections 2, 3, or 4 of the act, or any subsection of section 3 or section 4, and this part, but does not include one proposing arrangements under section 6 of the act.

(d) *Application.* "Application" means Form RSF-1, "Application for Financial Assistance for Current Expenditures for Public Schools in Areas Affected by Federal Activities" properly completed and executed, including amendments thereto, and, to the extent indicated by the applicant, any document or documents in support thereof, filed by or on behalf of an applicant requesting financial assistance under the act and this part.

(e) *Local educational agency.* "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having exclusive administrative control and direction of free public education, or some phase thereof, in a county, township, independent, or other school district located within a State.

(f) *Free public education.* "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(g) *Financial assistance.* "Financial assistance" means the payments made to an applicant under section 5 (b) of the act by the Department of the Treasury upon authorization of the Commissioner.

(h) *Entitlement.* "Entitlement" means the amount of assistance which, if the appropriations for a fiscal year were adequate to pay all claims, an applicant under sections 2, 3, or 4 would receive under the formulae of the act.

(i) *Most nearly comparable school districts.* The "most nearly comparable school districts" are those so determined by the Commissioner, after consultation with the State educational agency and the applicant.

(j) *Arrangements.* "Arrangements" means the agreement entered into between the Commissioner and a local educational agency or a Federal department or agency for the provision of free public education under section 6 of the act.

SUBPART B—FILING APPLICATIONS AND REPORTS AND COMPUTING AND MAKING PAYMENTS TO APPLICANTS

§ 113.2 *Scope.* The regulations in this part govern the granting of financial assistance under the act to applicants within the continental United States, Hawaii, Alaska, Puerto Rico, the Virgin Islands, Wake Island, and Guam.

§ 113.3 *Basis for assistance; administrative policy.* Pursuant to the provisions of sections 2, 3, and 4 of the act, assistance will be provided to those applicants upon which the United States has placed financial burdens by reason of the fact that: The United States has acquired real property; or such applicants provide education for children residing on, or whose parents are employed on, Federal property; or Federal activities have caused a substantial increase in school attendance. The Commissioner will consult the State educational agencies in the administration of the law and will utilize the facilities and services of other Federal departments and agencies in carrying out his functions under the act.

§ 113.4 *Applications.* Any local educational agency believing itself to be entitled to assistance under sections 2, 3, or 4 of the act or any subsection thereof, shall, as a condition of entitlement, file with the Commissioner of Education, through the appropriate State educational agency, on Form RSF-1, "Application for Financial Assistance for Current Expenditures for Public Schools in Areas Affected by Federal Activities under Public Law 874, 81st Cong., as amended," an application for financial assistance, showing basis for entitlement under the terms and conditions of the act. Each applicant shall submit such reports as the Commissioner

may reasonably require to determine the amount which the applicant may be paid under the act and make its records available to the Commissioner upon request for the purpose of examination or audit.

§ 113.5 *Final date for filing applications for financial assistance from funds appropriated for the fiscal year 1957, and thereafter.* (a) The final date for filing applications for financial assistance under sections 2, 3, or 4 of the act, or under any subsection thereof, and this part, out of funds appropriated for any fiscal year shall be March 31st of such fiscal year for all applicants; except that, whenever such date shall fall on a Saturday, Sunday, or other legal holiday, the final date for filing applications shall be the next succeeding week day. An application must be received by the Commissioner, or under cover postmarked, on or before the final filing date after transmittal through and certification by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing transmittal of the application to the Commissioner of Education by the final filing date. The applicant, in order to give the State educational agency time in which it may process the application, should file its application with the State educational agency by March 1 of the fiscal year. The final date for filing the application with the Commissioner is subject to the following exceptions:

(1) With respect to an applicant whose eligibility for financial assistance under this act is established by an activity of the United States initiated or reactivated, or by the acquisition of Federal property, during the fiscal year, the filing date shall be extended 60 days beyond the date of such occurrence establishing eligibility, but not beyond the last day of the fiscal year; or

(2) With respect to an applicant whose eligibility for financial assistance is established under or pursuant to an amendment to the act adopted during the fiscal year, the filing date shall be extended 60 days beyond the date of such amendment, but not beyond the last day of the fiscal year: *Provided,* That where an application is filed directly with the Commissioner within the applicable filing date, and a copy is filed within such time with the State educational agency, the application, for good cause shown, will be considered to be timely filed if within fifteen days after the applicable filing date and within the fiscal year the applicant obtains and files with the Commissioner approval, verification, and certification of the application by the State educational agency: *And provided, further,* That an application timely filed may be amended to obtain additional or alternative financial assistance based upon a Federal activity which has been initiated or reactivated, or upon property which has been acquired by the United States after the application was filed, or upon an amendment to the act enacted after the application was filed, or upon a determination of the Commissioner first communicated to the applicant that property is or is not "Federal property" under the act, if such amendment is made within the fiscal year and within 60 days of the occurrence or communication of the Commissioner's ruling to the applicant.

(b) After the applicable filing date an application cannot be amended or modified to assert a basis for financial assistance not clearly stated and supported by data in the application.

§ 113.6 *Applications under sections 2, 3, and 4 received after deadline not considered for payment.* Applications under sections 2, 3, and 4 of the act or any subsection thereof for fiscal year 1957, and for fiscal years thereafter, received by the Commissioner after the filing dates prescribed by this part will not be considered for payment.

§ 113.20 *Approval of applications.* An application will be approved only if it meets the conditions for entitlement under one or more of the sections or subsections of the act and this part. Each applicant will be notified of the initial approval or disapproval of its application and the estimated amount of payment, if any, to be made.

§ 113.21 *Payments.* Payment of the amount which an applicant may receive under the act and this part will be made by the Department of the Treasury upon certification of the amount due at such times as the Commissioner shall designate. The amount so certified for any period will be reduced or increased, as the case may be, by any sum by which the Commissioner finds that the amount paid to the applicant for any prior period, whether or not within the fiscal year, was greater or less than the amount which should have been paid for such prior period.

§ 113.22 *Payments of financial assistance under sections 2, 3, and 4 from fiscal year appropriations.* As prescribed by section 5 (c) of the act, if the funds appropriated for a fiscal year for such purposes are not sufficient to pay in full the total amounts which all applicants whose applications have been considered for payment pursuant to this part are entitled to receive under sections 2, 3, and 4 of the act or any subsection thereof for such fiscal year the Commissioner will reduce the amounts which he certifies under section 5 (b) of the act for such fiscal year for payment to each such applicant by the percentage by which the funds so appropriated are less than the total necessary to pay such applicants the full amount which they are entitled to receive under the act and this part.

§ 113.23 *Interim reports.* No payment after the initial payment shall be made to an applicant for a fiscal year until its final report has been filed, except that an applicant desiring an intermediate payment shall file with the Commissioner an interim report on Form RSF-3.

§ 113.24 *Reports from other Federal agencies.* Pursuant to the deduction requirements of section 3 (e) and other provisions of the act, the Commissioner requires information with respect to certain payments made by other Federal departments and agencies for the same general purposes. Pursuant to the provisions of section 8 (b) of the act other Federal departments and agencies which make expenditures (directly or otherwise) for, or in aid or supplementation of, elementary or secondary education, with respect to which an application has been filed with the Commissioner, are requested to file with the Commissioner on or before January 1 of each fiscal year a report of any commitments for such purposes and on or before July 31 succeeding each fiscal year a final report of such expenditures.

§ 113.25 *Necessity and effect of final reports by applicants under sections 2, 3, or 4*—(a) *Submission of final reports.* For each fiscal year, each applicant shall submit through the State educational agency on Form RSF-3 a final report to enable the Commissioner to determine the amount to which the applicant is entitled under the act. Such final reports shall be received by the Commissioner on or before the thirtieth day of September following the fiscal year for which payment is requested; except that, whenever such date shall fall on a Saturday, Sunday, or other legal holiday, the final date for filing applications shall be the next succeeding week day. No certification of payment shall be made after the applicable date for filing the final report for any fiscal year until the final report for such fiscal year has been received. Until all such reports for each year for which an applicant has received payment have been received in proper form, no further certification for payment to such applicant shall be made under the provisions of the act for any subsequent fiscal year.

(b) *Failure to submit final report when appropriations insufficient.* Unless the final report, for any year for which the Commissioner is required to reduce the amounts which he certifies for payment because the funds appropriated are insufficient to pay in full the total amounts to which all applicants are entitled, has been received by the Commissioner on or before the applicable date for filing the final report, an applicant, in addition to the provision in paragraph (a) of this section, shall not be entitled to any further certification for payment out of funds available for such fiscal year: *Provided,* That an applicant which has not received the regular initial payment for such year, shall have its application processed for such regular initial payment if a final report is received by the Commissioner within 30 days of the applicable date for filing the final report.

(c) *Excessive entitlement.* The Commissioner may disallow any portion of the entitlement estimated for a fiscal year for which no final report has been received which he may determine to be excessive on the basis of such information as is available. Whether or not a report has been submitted, if an applicant is found, after the applicable date for filing a final report following the close of the fiscal year, on the basis of all available information, to have received funds in excess of its entitlement or prorated portion of its entitlement for such fiscal year, such excess will be

deducted in computing amounts subsequently certified for payment to the applicant for the current or subsequent fiscal year, or, where no payments are due, the applicant will be required to refund such excess to the United States through the Commissioner.

(d) *Information submitted after deadline date.* No effect shall be given to any report or information filed after the applicable date for filing final reports to increase the amount computable on the basis of information on file on such date, except that where data have been requested by the Commissioner for the purpose of processing applications such information may be given such effect if received by the Commissioner on or before the date stated in the Commissioner's request.

§ 113.50 *Determination of most nearly comparable school districts.* (a) The Commissioner may determine for a fiscal year the school districts most nearly comparable to that of an applicant (1) by classification of all school districts in a State into groups based upon a recommendation by the State educational agency made with the consent of all applicants in the State; or (2) by a selection of individual school districts. If the Commissioner has determined that group classifications shall be used in a State no departure therefrom will be permitted in that State for the fiscal year.

(b) The State educational agency for any fiscal year, with the consent of all applicants in the State, may recommend to the Commissioner classification of all school districts in the State into most nearly comparable groups. The State educational agency should initially establish groups based upon legal classifications or justify the use of another factor as the principal factor. Unless the State educational agency can establish to the satisfaction of the Commissioner that the consideration of additional factors will not result in greater comparability, division into further groups will be required and for the purpose of such further division consideration shall be given to grade level, size as measured by total average daily attendance, geographical size, density of population, industrialization, current revenues, aggregate value of property, and any other relevant factors. In making its recommendations to the Commissioner, the State educational agency will furnish such information as he may require, including information justifying the factors used and financial and attendance data necessary for the computation of per pupil expenditure and local contribution rate. On the basis of the recommendation by the State educational agency, the data furnished and other information which he may obtain, and applying the above criteria, the Commissioner shall determine whether all school districts in the State shall be classified into most nearly comparable groups and, if so, shall determine such groups.

(c) In a State for which group classifications of the most nearly comparable school districts are not established pursuant to paragraph (b) of this section, an applicant must submit to the Commissioner in its application the names of districts, preferably five in number, which it deems most nearly comparable to the school district of the applicant with all data requested by the Commissioner. The selection by the applicant of such school districts shall be based upon the criteria set forth in paragraph (b) of this section and shall be submitted through the State educational agency for review and comment. The Commissioner's determination will be based upon such criteria and any other relevant factors. The financial, attendance, and other data of the selected districts must be sufficient to justify the selection of such districts as the most nearly comparable and to determine the per pupil expenditures and the local contribution rates in such districts. On the basis of information and data furnished by the applicant, or information otherwise obtained, and applying the above criteria, the Commissioner shall select those school districts, which in number and identity may be different from those submitted by the applicant, which he determines to be most nearly comparable to the school district of the applicant.

§ 113.51 *Computation of local contribution rate in continental United States.* The local contribution rate for an applicant in the continental United States for any fiscal year shall be computed by the Commissioner, after consultation with the State educational agency and the applicant, in the following manner: He shall divide (a) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making the computation, which the local educational agencies of the school districts, determined to be most nearly comparable to that of the applicant, made, from revenues derived from local sources, by (b) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year. The local contribution rate shall be an amount equal to the quotient so obtained.

§ 113.52 *Increase in or special local contribution rate.* (a) Notwithstanding the provision in § 113.51 and in accordance with the provision in section 3 (d) of the act, if, in the judgment of the Commissioner, the current expenditures in those school districts which he has determined to be the most nearly comparable to that of the applicant are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain in the school district of the applicant a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such applicant by the amount he determines will compensate the applicant for the increase in current expenditures necessitated by such unusual geographical factors.

(b) If the rate computed as provided in § 113.51, or such rate as increased in accordance with paragraph (a) of this section, is less than 50 percent of the average per pupil expenditure for providing free public education during the second preceding fiscal year in the applicable State, or is less than the "national average per pupil local contribution rate," the rate shall be increased to whichever is the greater of the following: (1) 50 percent of the State average per pupil expenditure or (2) the national average per pupil local contribution rate, but not to exceed the "average per pupil expenditure in such State." For the purposes of the preceding sentence, "average per pupil expenditure in such State" and national average per pupil local contribution rate" are defined in the act as follows: "average per pupil expenditure in such State" means "the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in such State (without regard to the sources of funds from which such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year"; and "national average per pupil local contribution rate" means "the aggregate amounts to which local educational agencies in the continental United States became entitled under section 3 (c) (1) for such second preceding fiscal year, divided by the aggregate number of children used under section 3 (c) (1) in computing such amounts (counting children under section 3 (b) as one-half those under sec. 3 (a))."

(c) The local contribution rate for any applicant in Alaska, Hawaii, Puerto Rico, the Virgin Islands, Wake Island, or Guam shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of the act and most nearly approximate the policies and principles provided in the act and this part for determining local contribution rates in States of the continental United States.

§ 113.53 *Notice required of changes in boundaries, classification, and governing authority of applicants.* The Commissioner shall be notified without undue delay by all applicants of the effective date for all purposes, the extent and character of, and the legal authority under which, any modifications in school districts that have occurred as a result of merger, consolidation, annexation, deconsolidation, or other similar action, which may affect the boundaries, identity, governing authority, classification, or control of any applicant. This shall include the original applicant and the successor district or districts.

§ 113.54 *Provisions not exhaustive of jurisdiction of the Commissioner.* No provision of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

SUBPART C [RESERVED]

SUBPART D—ARRANGEMENTS UNDER SECTION 6 OF THE ACT

§ 113.75 *Proposal for arrangements for certain children residing on Federal property.* Any local educational agency or the Federal department or agency administering the Federal property on which part or all of such children reside, believing that the Commissioner should exercise his authority under section 6 (a) of the act to make arrangements to provide free public education for children who reside on Federal property, and being willing to enter into or assist in entering into such arrangements, should file with the Commissioner, on or before March 15 preceding the fiscal year for which such arrangements would be made, a proposal in the form prescribed by the Commissioner and bearing the endorsement of the State and local educational agencies and of the appropriate officials of the Federal department or agency administering the property or properties on which the children reside. Among the details to be included in the proposal are (a) the reasons why the Commissioner should make a determination to enter into such arrangements, (b) the estimated number of children to be educated, (c) financial and educational details necessary for the Commissioner to make the determinations and arrangements required under section 6, and (d) the name of the local educational agency or Federal department or agency which would provide such free public education.

§ 113.76 *Determination by the Commissioner.* If under section 6 (a) the Commissioner determines that he is required to make such arrangements to provide free public education for part or all of the children on whose behalf the request is made or if, acting upon information otherwise received, he makes a determination to provide free public education for children who reside on Federal property, such arrangements shall be made, in accordance with the proposal or such other information or recommendation as he may deem appropriate, with a local educational agency or with the Federal department or agency administering the Federal property on which part or all of the children reside who will be provided education pursuant to the arrangements.

§ 113.77 *Arrangements under section 6 (b) and section 6 (c).* When the Commissioner makes a determination under section 6 (a) that arrangements shall be made to provide free public education with respect to children who reside on Federal property, he will under appropriate circumstances also make arrangements in connection therewith for those children for whose education he is authorized to make provisions under section 6 (b) and section 6 (c).

§ 113.78 *Arrangements.* The arrangements between the local educational agency or the Federal department or agency and the Commissioner shall be as detailed as the circumstances of the individual situations may require.

§ 113.79 *Expenditures.* In making such arrangements the Commissioner shall not make payments (a) for expenditures made prior to his determination that he is required to make such arrangements; or (b) for expenditures made subsequent thereto unless such expenditures are within the definition of "current expenditures" in section 9 (5) of the act and are within the general terms of the arrangements; or (c) for expenditures in excess of the actual or reasonable per pupil expenditure of providing free public education in the applicable State.

§ 113.80 *Reports.* The local educational agency or the Federal department or agency with which such arrangements are made shall make such reports to the Commissioner from time to time as he may require to perform his functions under this act.

§ 113.81 *Termination of arrangements.* Arrangements under section 6 shall be limited to providing free public education for not more than one school year. If the Commissioner determines that the local edueational agency or the Federal department or agency with which arrangements have been made has substantially deviated from the terms of the arrangements, he shall so notify the local educational agency or the Federal department or agency concerned. If the local educational agency or the Federal department or agency does not within a reasonable time comply with the terms of the arrangements, the Commissioner may terminate such arrangements without further notice.

[SEAL] WAYNE O. REED,
Acting United States Commissioner of Education.

Approved August 31, 1956.

HEROLD C. HUNT,
Acting Secretary of Health, Education, and Welfare.

[F. R. Doc. 56-7185; Filed, Sept. 6, 1956; 8:49 a. m.]

Chapter IV—Office of Vocational Rehabilitation, Department of Health, Education, and Welfare

PART 401—THE VOCATIONAL REHABILITATION PROGRAM

PART 404—ADMINISTRATIVE PROCEDURE

MISCELLANEOUS AMENDMENTS

Sections 401.76 and 401.77 (c) of Part 401 are amended to indicate the extension through June 30 1957, of authority for making grants under section 4 (a) (2) of the Vocational Rehabilitation Act, as amended by 70 Stat. 956. Section 404.11 of Part 404 is amended to reflect changes in the administrative procedures of the Office of Vocational Rehabilitation pertaining to the processing of applications for such grants. The sections are amended to read as follows:

§ 401.76 *Expansion grants; general requirements.* Under section 4 (a) (2) of the act, grants may be made to States and public and other nonprofit organizations and agencies for the purpose of planning, preparing for, and initiating a substantial expansion of vocational rehabilitation programs in the States, during the fiscal years ending June 30, 1955, June 30, 1956, and June 30, 1957. Applications for expansion grants shall be made in the form and detail required by the Director. The approval of the State agency shall be secured by the applicant for the expansion grant, if other than the State agency, for any activity which involves either direct services to handicapped individuals or the establishment of facilities which will render direct services to handicapped individuals of that State. With respect to grants for the use of State or local rehabilitation agencies, such grants shall be made only if the Director is satisfied that the State agency will comply with such conditions concerning the utilization of allotments and the expenditure of State funds as he may find necessary to assure that any available State or local funds will first be used to earn allotments under section 2 of the act. Grants to other public or nonprofit organizations and agencies may be made only on recommendation of a State agency.

§ 401.77 *Federal financial participation.* * * *

(c) The Second Supplemental Appropriation Act, 1957, provides that grants from that appropriation for purposes of expansion activity shall not exceed $2 for every $1 spent by the grantee, or the State and the grantee.

§ 404.11 *Expansion grants.* The authority for special grants for planning, preparing for, and initiating during the three-year period ending June 30, 1957, a substantial nationwide expansion of vocational rehabilitation programs in the States, is described in §§ 401.76 and 401.77. Applications from public or other nonprofit agencies or organizations for such grants are made on a form obtainable from the Regional Representative of the Office of Vocational Rehabilitation. Completed applications are submitted to such Representative who determines the action to be taken and notifies the applicant accordingly.

(Sec. 7, 63 Stat. 658; 29 U. S. C. 37. Interpret or apply sec. 4, 68 Stat. 655, as amended; 29 U. S. C. 34)

Dated: August 31, 1956.

[SEAL] HEROLD C. HUNT,
Acting Secretary.

[F. R. Doc. 56-7176; Filed, Sept. 6, 1956; 8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 10—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, division 2, held at its office in Washington, D. C., on the 17th day of August A. D. 1956.

The matter of accounting regulations prescribed for railroad companies being under consideration pursuant to provisions of section 20 (3) of the Interstate Commerce Act, as amended (54 Stat. 917, 49 U. S. C. 20); and,

It appearing, that a notice of proposed rule making was issued June 6, 1956, announcing that rearrangement of the form of general balance sheet statement prescribed for railroad companies was under consideration, such notice being published in the FEDERAL REGISTER issue of July 4, 1956 (21 F. R. 4973) pursuant to provisions of section 4 (a) of the Administrative Procedure Act; and, after consideration of all written views and arguments received on or before August 1, 1956, as provided in such notice,

It is ordered, That:

(1) *Effective date.* Effective January 1, 1957, all carriers by railroad subject to Part I of the act and not independently operated as electric lines, shall comply with the modifications, which are set forth below, and which rearrange the form of general balance sheet statement substantially as proposed in the notice of June 6, 1956.

(2) *Notice.* A copy of this order with the attached modifications shall be served on each carrier by railroad subject to its provisions, and on every trustee, receiver, executor, administrator, or assignee of any such carrier, and notice of this order shall be given to the general public by depositing a copy thereof with the attached modifications in the office of the Secretary of the Commission at Washington, D. C., and by filing the order with the Director of the Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12)

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY, *Secretary.*

Cancel the provisions in this part covered by § 10.08–9 and by § 10.701 to § 10.790, both inclusive, and substitute for them the provisions detailed below. Changes hereinafter in the number, or in the number and title, of an account shall be understood to require corresponding changes elsewhere in this part where present reference appears to the old number, or old number and title, as detailed in the Appendix hereto.

GENERAL BALANCE SHEET ACCOUNTS

DEBIT

§ 10.701 *Cash.* This account shall include money, checks, sight drafts, and sight bills of exchange in the hands of the accounting company's financial officers and agents, or in transit from its agents and conductors for which such agents and conductors have received credit. It shall include, also, deposits with banks and trust companies available for use on demand, and savings accounts subject to the usual clause reserving the right to defer payment for a specified number of days.

§ 10.702 *Temporary cash investments.* This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time loans, time deposits with banks and trust companies, and other similar investments of a temporary character.

§ 10.703 *Special deposits.* This account shall include funds specifically deposited for the payment of dividends, interest, and other current liabilities; also other deposits subject to current withdrawal for specific purposes only.

NOTE: Deposits available for general company purposes shall be included in account 701, "Cash."

§ 10.704 *Loans and notes receivable.* This account shall include the book value of all collectible obligations in the form of demand or time loans and notes receivable, or other similar evidences (except interest coupons) of money receivable within a time not exceeding one year from date of issue.

NOTE A: Obligations held as investments which mature more than one year after date of issue shall be included in accounts 721, "Investments in affiliated companies"; or 722, "Other investments," as may be appropriate.

NOTE B: Loans and notes receivable acquired for the purpose of temporarily investing cash shall be included in account 702, "Temporary cash investments."

§ 10.705 *Traffic and car-service balances—Dr.* This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net debit.

NOTE A: When the net of the balances is a credit it shall be included in account 752, "Traffic and car-service balances—Cr."

NOTE B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

705 and 752 (a) Interline freight, balance.
705 and 752 (b) Interline passenger, balance.
705 and 752 (c) Interline baggage, balance.
705 and 752 (d) Equipment interchange, balance.

§ 10.706 *Net balance receivable from agents and conductors.* This account shall include the net balance due in current accounts from agents, from train, sleeping car, and dining car conductors, and from train collectors, train auditors, porters, and other employees and representatives charged with the collection or custody of current revenues.

NOTE: Amounts advanced to general and special agents as working funds shall not be included in this account, but in account 710, "Working fund advances."

§ 10.707 *Miscellaneous accounts receivable.* This account shall include amounts due in audited accounts considered good, such as those due from the United States or other Governments for the transportation of mails and Government property, and from express companies for express facilities furnished under contract; amounts due from other carriers on account of freight claims paid; miscellaneous bills against other railway companies, corporations, firms, and individuals, and other similar items.

NOTE: The amount to be entered in this account is not the net balance between this account and account 754, "Miscellaneous accounts payable."

§ 10.708 *Interest and dividends receivable.* This account shall include the amount of interest accrued to the date of the balance sheet on bonds owned and on loans made, the amount of dividends declared on stocks owned, and dividends accrued on such stocks when contracts require that the dividends be paid at stated times.

NOTE A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

NOTE C: If settlement of amounts included in this account is not made when due either in cash or with other tangible assets of equal money value, such amounts shall be cleared from this account and charged to the income account originally credited. If notes are taken in settlement of amounts included in this account, the amounts thereof shall be charged to account 704, "Loans and notes receivable," or account 741, "Other assets," as may be appropriate, but such amounts shall not be credited to income (or if previously credited to income shall be cleared therefrom as provided in the first sentence of this note), unless inclusion therein is justified by the current asset position of the obligor. If such notes are of doubtful value, the amount at which they are charged to account 741, "Other assets," shall be credited to account 784, "Other deferred credits," and income shall not be credited until payment is received, and then only with the amount collected. If long-term notes are taken in settlement of current assets, the credit to income shall be cancelled and account 741, "Other assets," shall be charged with their true values, and a like sum shall be credited to account 784, "Other deferred credits."

§ 10.709 *Accrued accounts receivable.* This account shall include estimates of all unaudited current items receivable by the carrier to the date of the balance sheet, including those which are creditable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items.

Examples of items to be included:

Rents receivable which are not includible in account 707, "Miscellaneous accounts receivable." See Note C to account 708, "Interest and dividends receivable."

Amounts receivable from others for unreported interline traffic.

Amounts receivable from others for use of facilities, including equipment, for which bills have not been rendered.

Amounts receivable from others for services for which bills have not been rendered.

§ 10.710 *Working fund advances.* This account shall include amounts advanced to general and special agents, and to other officers and employees, as working funds from which certain expenditures are to be made and accounted for. It also includes advances to fast freight lines and to demurrage and other bureaus.

NOTE: Advances to jointly owned or used terminal companies and other companies for permanent working funds or capital purposes shall be included in accounts 721, "Investments in affiliated companies," or 722, "Other investments," as may be appropriate.

§ 10.711 *Prepayments.* This account shall include the balances in the accounts representing prepaid rents

chargeable to the appropriate rent accounts as the term is consumed for which the rents are paid; also interest and insurance premiums paid in advance of their accrual, which are to be apportioned and charged, as they accrue, to the appropriate accounts.

§ 10.712 *Material and supplies.* This account shall include the balances representing the cost, less depreciation, if any, of all unapplied material, such as road and shop material, articles in process of manufacture by the accounting company, fuel, stationery, and dining car and other supplies. In determining the cost of material and supplies suitable allowance shall be made for any discounts allowed in the purchase thereof.

NOTE A: Balances representing the cost of unapplied construction material and supplies located at the point of use, which have been purchased for projected new roads and extensions, are provided for in road and equipment account 47, "Unapplied construction material and supplies," or account 59, "Unapplied material and supplies—Equipment."

NOTE B: An inventory of material and suppiles shall be taken during each calendar year and the necessary adjustments to bring this account into harmony with the actual inventory balances shall be made in the accounts of the year in which the inventories are taken. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which the classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts to which material has been charged since the last inventory.

§ 10.713 *Other current assets.* (a) This account shall include items of current assets not covered by accounts 701 to 712, inclusive.

(b) It shall include asset items not includible in any of the foregoing asset accounts that have been advanced beyond the stage of deferred assets.

§ 10.715 *Sinking funds.* This account shall include the amount of cash, the ledger value of live securities of other companies, and other assets which are held by trustees of sinking and other funds for the purpose of redeeming outstanding obligations, including such assets so held in the hands of the accounting company's treasurer when the assets are segregated in a distinct fund; also amounts deposited with such trustees on account of mortgaged property sold, the proceeds of which are to be held for the redemption of securities, and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of live securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund. The title of each such account shall designate the obligation in support of which the fund is created.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

§ 10716 *Capital and other reserve funds.* (a) This account shall include cash and the ledger value of other assets held by trustees or by the accounting company's treasurer when segregated in distinct funds that have been (1) realized from the sale of equipment obligations or other long-term obligations and not yet applied toward the specific purposes for which the obligations were incurred, and (2) set aside in accordance with governmental, mortgage, or contractual requirements in connection with reorganizations or otherwise. This account shall also include funds deposited with trustees to be held until mortgaged property sold is replaced.

(b) An appropriate record shall be maintained for securities issued or assumed by the accounting company and held in the funds, identifying those that are nominally issued or nominally outstanding.

NOTE A: Funds specifically set aside for sinking fund purposes shall be included in account 715, "Sinking funds." If one purpose of a capital fund is to provide contributions to a sinking fund under specified conditions, the entire amount of the fund shall be included in this account until the contributions to the sinking fund are made, at which time the amounts thereof shall be transferred to account 715.

NOTE B: The ledger value of assets of the character indicated in paragraph (a) (2) of this section, shall be transferred to the appropriate current asset account when the assets are definitely assigned in advance of expenditure to the payment of interest or other current liabilities payable within one year.

NOTE C: Bank deposits subject to current withdrawal for specific purposes only, shall be included in account 703, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

§ 10.717 *Insurance and other funds.* This account shall include the amount of cash and the ledger value of securities of other companies and other assets which are in the hands of trustees or managers of insurance, employees' pension, savings, relief, hospital, and other funds which have been raised and specifically set aside or invested for specific purposes not provided for elsewhere; also the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund.

NOTE A: Sinking funds and special deposits for the retirement of obligations are provided for in accounts 715 and 703, respectively.

NOTE B: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

NOTE C: This account shall not include funds held by the accounting company solely as trustee and in which it has no beneficial interest.

NOTE D: Bank deposits subject to current withdrawal for specific purposes only, shall be included in account 703, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

§ 10.721 *Investments in affiliated companies.* This account shall include the ledger value of the accounting company's investment in securities issued ar assumed by affiliated companies other than securities held in special deposits or special funds, and also investment advances made to affiliated companies.

This account shall be maintained in such manner as to show each of the following classes of investment in each affiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with affiliated companies which are subject to current settlement, if their collection is reasonably assured, shall be classed as current assets, but if settlement is deferred beyond one year such items shall be transferred to account 741 "Other assets."

NOTE B: The term affiliated companies includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.
2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.
3. Companies controlled by controlled companies.
4. Companies controlled by controlling companies.

By "control" is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 703, "Special deposits," 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

§ 10.722 *Other investments.* This account shall include the ledger value of the accounting company's investment in securities issued or assumed by nonaffiliated companies other than securities held in special deposits or special funds; also investment advances made to nonaffiliated companies and to individuals.

This account shall be maintained in such manner as to show each of the following classes of investment in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report of the Commission.

NOTE A: Accounts with nonaffiliated companies which are subject to current settlement, if their collection is reasonably assured, shall be classed as current assets, but if settlement is deferred beyond one year such items shall be transferred to account 741, "Other assets."

NOTE B: The term "nonaffiliated companies" includes all companies other than those defined as affiliated in Note B of account 721, "Investments in affiliated companies."

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

§ 10.723 *Reserve for adjustment of investment in securities-Cr.* This account shall include the total of the balances in such reserves as are maintained by the accounting company for the purpose of providing for reductions in the value of securities owned and recorded in accounts 721, "Investments in affiliated companies," or 722, "Other investments." Corresponding charges shall be made to account 621, "Miscellaneous debits."

If reserves are maintained in provision for anticipated losses in specific securities, when the related assets are written down or written off, or are sold or otherwise disposed of at a loss, the reduction in the book value or the losses sustained shall be charged to this account to the extend of the credit balance in the account applicable to the particular securities involved, and the remainder, if any, shall be charged to account 621, "Miscellaneous debits." In case a general reserve for losses in unspecified security values is maintained, all such losses resulting from write-downs, write-offs, etc., shall be charged to this account to the extent of the total credit balance in the account, and the remainder, if any, shall be charged to account 621, "Miscellaneous debits."

§ 10.731 *Road and equipment property.* This account, except in connection with the acquisition of transportation property as provided for in accounts 733, "Acquisition adjustment," and 734, "Donations and grants—Cr.," shall include the accounting company's investment in road and equipment (including that held under contract for purchase), used or held for use as transportation property in existence at the date of the balance sheet.

When property is retired from service this account shall be credited with the ledger value of the property retired.

NOTE A: This account shall not include any items representing titles to securities.

NOTE B: When any equipment is acquired under an agreement which provides that the cost shall be paid in installments, the cost (its money value at time of purchase) shall be charged to the appropriate road and equipment accounts at the time the equipment is delivered to the carrier, and included in this account in the same manner as the cost of equipment purchased outright. When the par value of notes or other securities issued in payment, or in part payment, for such equipment is more (or less) than in actual cash value of the equipment at the time of the purchase, or of the proportion to which the securities are applicable, the difference between the par value of the securities and the actual cash value of the equipment, or of the proportion paid for by the securities, shall be charged (or credited) to the proper discount and premium accounts.

NOTE C: Held for use, as referred to above, implies the ability of the carrier to substantiate by plans or policy its characterization of the probable future use which is to be made of the property within a reasonable period of time.

§ 10.732 *Improvements on leased property.* This account, except in connection with the acquisition of transportation property as provided for in the accounts 733, "Acquisition adjustment," and 734, "Donations and grants-Cr.," shall include the cost of improvements made by the lessee to property which is held under lease from others or through control of the company owning the property, where such improvements are used by the lessee in transportation service, and the lessee is not to be reimbursed by the lessor for such improvements.

When the cost of improvements made by the lessee is to be refunded by the lessor periodically during the term of the lease agreement or at the termination thereof, and provided further that in the meantime the lessor or company does not include the cost of such improvements in account 731, "Road and equipment property," the lessee shall include the cost thereof in this account.

When leased property is retired from service this account shall be credited with the ledger value of any improvements thereto the cost of which has been included in this account, and also with the amount representing the liability of the carrier to the lessor or owner for any property retired that has been used in transportation service and was held under lease or through control of the company owning the property.

The carrier's records shall be kept in such manner as to show the debits and credits to this account in accordance with the provisions for road and equipment.

NOTE A: This account shall not include any items representing titles to securities.

NOTE B: When the lessor company includes in account 731, "Road and equipment property," the cost of improvements made by the lessee to property leased by it from the lessor and settlement is not made at the time for the cost thereof, the lessee, pending settlement with the lessor, shall include the cost thereof in account 721, "Investments in affiliated companies," or 722, "Other investments," as may be appropriate.

§ 10.733 *Acquisition adjustment.* This account shall be charged with the cost of a railway or portion thereof acquired since January 1, 1938, as an operating entity or system by purchase, merger, consolidation, reorganization, receivership sale or transfer, or otherwise. If the consideration or a part thereof given for the property acquired consists of securities issued by the accounting carrier, the cash value thereof for the purpose of determining the cost to be charged to this account shall be the sum of the par value of securities having par values and the stated or assigned values of nopar securities as determined and approved by the Commission. Where the consideration given for the property acquired is other than cash or securities issued by the accounting carrier, such consideration shall be valued on a current cash basis.

The accounting for assets acquired and liabilities assumed shall then be as follows:

(a) Assets acquired, except property includible in accounts 731, "Road and equipment property," or 732, "Improvements on leased property," and liabilities assumed shall be recorded in their appropriate accounts in the manner provided for in classification of general balance sheet accounts.

(b) Property includible in primary road and equipment accounts 1, and 2½ to 58, inclusive, and 72 to 77, inclusive, shall be recorded in those accounts at original cost or estimated original cost as found by the Commission for valuation purposes.

(c) In the primary road and equipment account 2, there shall be recorded the original cost of lands owned by predecessor carrier or carriers at basic valuation date as reported under Valuation Order No. 7, dated November 21, 1914, and included in the Commission's basic valuation reports. Any lands so reported without cost except those donated shall be estimated by the accounting company, which will be subject to verification by the Commission. To this shall be added the cost at the time of dedication to public use of any lands acquired since the basic valuation date.

(d) In the primary road and equipment account 71, there shall be recorded the expenditures incident to the organization or reorganization of the accounting company.

(e) The money outlay expended by a predecessor carrier or carriers for additions and betterments to property leased from other companies whose physical properties are not included in the reorganization, shall be transferred

to account 732, "Improvements on leased property," in the amounts recorded in that account on the books of the predecessor carrier or carriers.

(f) The amounts thus recorded in primary accounts 1 to 77, inclusive, shall be concurrently charged to balance sheet account 731, "Road and equipment property," or 732, "Improvements on leased property," as appropriate.

(g) Balances in accounts 735, "Accrued depreciation—Road and equipment," and 785, "Accrued depreciation—Leased property," carried on the books of the predecessor carrier or carriers at date of acquisition shall be recorded in those accounts on the books of the accounting company. To the extent that a credit balance is available in this account, the accounting company shall credit account 735, "Accrued depreciation—Road and equipment," and charge this account with the estimated amount by which the balance in account 735 appears to be deficient with respect to past accrued depreciation on depreciable road property included in account 731, "Road and equipment property."

(h) This account shall concurrently be debited or credited, as appropriate, to offset asset and liability items recorded in accordance with paragraphs (a) to (g) of this section.

(i) To the extent that a credit balance is available in this account, if so authorized upon application to the Commission, retirement of property in existence at the date of acquisition which is not replaced may be charged hereto if the loss is not assignable to operations subsequent to date of acquisition. Other charges to this account may be made upon specific approval by the Commission.

NOTE: The accounting company shall be prepared to furnish the Commission with a full report of the contract of organization and a statement showing in detail the consideration given for the property acquired. It shall procure in connection with the organization all existing records, memoranda, and accounts in possession or control of the grantor relating to construction and improvement of the property acquired and shall preserve such records, memoranda and accounts until authorized by law to destroy or otherwise dispose of them.

Where the records, memoranda, and accounts are so involved with other records, memoranda, and accounts of the grantor as to make this transfer impracticable, certified copies, shall be procured and retained by the accounting company; the verity of the copies should be certified by the custodian of the originals.

§ 10.734 *Donations and grants—Cr.* This account shall be credited with grants obtained from governmental agencies, and with donations from individuals and others in connection with the construction or acquisition of property the cost of which is chargeable to accounts 731, "Road and equipment property," and 732, "Improvements on leased property."

§ 10.735 *Accrued depreciation; road and equipment.* (a) This account shall be credited with amounts concurrently charged to operating expenses or other accounts to cover the loss in service value of depreciable road and equipment property. It shall also include amounts which the Commission may authorize the accounting company to credit to account 607, "Miscellaneous credits," or charge to account 621, "Miscellaneous debits," or to account 733, "Acquisition adjustment," in respect to past accruals of depreciation.

(b) At the time of the retirement of each unit of depreciable property, this account shall be charged with the entire service value of the unit retired or minor item retired and not replaced.

(c) For balance sheet purposes, this account shall be treated as a single composite reserve for property. However, for purposes of analysis, the accounting company shall maintain subsidiary records in which this reserve is broken down into components corresponding to the primary accounts for depreciable property. These subsidiary records shall show the current debits and credits to this reserve by primary accounts.

§ 10.736 *Amortization of defense projects; road and equipment.* This account shall include the amounts of accumulated past provisions for amortization of road and equipment defense projects, the cost of which is included in account 731, "Road and equipment property," or account 732, "Improvements on leased property." This account shall be charged with the credit balance herein applicable to specific property at the time the property is retired.

The accounting company shall maintain subaccounts separately for accrued amortization of (1) road property and (2) equipment.

§ 10.737 *Miscellaneous physical property.* This account shall include the accounting company's investment in physical property other than property assignable to accounts 731 and 732, including hotels, restaurants, power plants, etc., which are not operated by the accounting company or another carrier in connection with its transportation service.

ITEMS OF INVESTMENT

Coal and other mines.
Commercial power plants.
Hotels and restaurants.
Lands and buildings not used in transportation operations.
Lands and other property acquired and held in anticipation of future use.
Mineral and timber lands.
Rails and other track material leased to others.
Saw mills and other manufacturing plants not operated in connection with transportation service.

§ 10.738 *Accrued depreciation; miscellaneous physical property.* This account shall be credited with amounts charged to income or other accounts to cover the depreciation of property the cost of which is included in account 737, "Miscellaneous physical property."

When any miscellaneous physical property is destroyed, sold, or otherwise retired from service, the amount included in this account with respect to the property retired shall be charged hereto.

§ 10.741 *Other assets.* This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason; items of a current character but of doubtful value; other deferred assets; and assets not otherwise provided for in general balance sheet accounts.

§ 10.742 *Unamortized discount on long-term debt.* This account shall include the total of the net debit balances in the discount, expense, and premium accounts for the several subclasses of funded debt.

§ 10.743 *Other deferred charges.* This account shall include the amount of debit balances in suspense accounts that cannot be cleared and disposed of until additional information is received, such as freight claims paid when found to be correct, but in advance of investigation with other carriers; debit balances in clearing accounts, such as "Shop expenses," "Store expenses," "Operations of gravel pits," and "Operation of quarries;" unextinguished discount on short-term notes; unadjusted debit items not otherwise provided for and similar items the proper disposition of which is uncertain.

This account also is intended as a suspense account in which may be included deferred amounts for property retired chargeable to operating expenses as follows:

(a) Amounts representing the service value of nondepreciable road property retired which are relatively so large that their inclusion in the accounts for a single year would distort those accounts.

(b) Amounts representing the service value of depreciable road property retired which are relatively so large that their inclusion in the depreciation reserve would result in unduly depleting the reserve.

(c) Amounts representing the service value of equipment retired which are relatively so large that their inclusion in the depreciation reserve would result in unduly depleting the reserve.

(d) This provision covering property retired is to be used only after permission of the Commission has been asked and given. The carrier in its application to the Commission shall give full particulars concerning the property retired, the amount which it is proposed to charge to operating expenses, and the period over which, in its judgment, the amount of such charge shall be distributed.

CREDIT

§ 10.751 *Loans and notes payable.* This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences (except interest coupons) of indebtedness payable on demand or within a time not exceeding one year from date of issue.

This account shall be kept in such form so as to show separately the amounts of notes payable within one year from date of issue that are secured by collateral.

NOTE: This account shall not include obligations which mature more than one year after date of issue, or demand or short-term notes issued to affiliated companies and includible in account 769, "Amounts payable to affiliated companies."

§ 10.752 *Traffic and car-service balances—Cr.* This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net credit.

NOTE A: When the net of the balances is a debit it shall be included in account 705, "Traffic and car-service balances-Dr."

NOTE B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

705 and 752 (a) Interline freight, balance.
705 and 752 (b) Interline passenger, balance.
705 and 752 (c) Interline baggage, balance.
705 and 752 (d) Equipment interchanged, balance.

§ 10.753 *Audited accounts and wages payable.* This account shall include the amount of audited vouchers or accounts and audited payrolls unpaid on the date of the balance sheet. It shall include balances representing unclaimed wages and outstanding pay and time or discharge checks issued in payment of wages and all other unpaid vouchered items.

§ 10.754 *Miscellaneous accounts payable.* This account shall include outstanding drafts drawn by station agents, outstanding drafts drawn on the company in settlement of freight claims, conductors' refund and extra-fare checks not presented for redemption, deposits of affiliated companies subject to current settlement, and other items of the nature of demand liabilities not covered by accounts 751, 752, 753, 755 and 756.

NOTE: The amount to be reported under this account is not the net balance between this account and account 707, "Miscellaneous accounts receivable."

§ 10.755 *Interest matured unpaid.* This account shall include the amount of matured and unpaid interest on funded debt, and other obligations of the accounting company for which provision has been made for current settlement.

Interest which matures on the first day following that for which the balance sheet is made shall be included in this account.

NOTE: Interest matured unpaid on nonnegotiable debt to affiliated companies, if not subject to current settlement, shall be included in account 769, "Amounts payable to affiliated companies."

§ 10.756 *Dividends matured unpaid.* This account shall include the amount of dividends payable on capital stock but unpaid, uncalled for, or unclaimed at the date of the balance sheet.

Dividends which become payable on the first day following that for which the balance sheet is made shall be included in this account.

§ 10.757 *Unmatured interest accrued.* This account shall include the amount of interest subject to current settlement accrued to the date the balance sheet is made, but not payable until after the first day following that date, on funded securities or obligations, debt in default, receivers' and trustees' securities, amounts payable to affiliated companies, notes payable and other indebtedness issued or assumed by the accounting company.

NOTE A: Interest accrued which is not paid when it matures shall be included in account 781, "Interest in default", unless provision has been made for current settlement. Where interest is in default, subsequent accruals shall be credited direct to account 781, "Interest in default."

NOTE B: Interest accrued on amounts recorded in account 769, "Amounts payable to affiliated companies," and not subject to current settlement, shall be included in that account.

§ 10.758 *Unmatured dividends declared.* This account shall include dividends declared on capital stock, but not payable until after the first day following the date of the balance sheet.

§ 10.759 *Accrued accounts payable.* This account shall include estimates of all unaudited items payable by the carrier to the date of the balance sheet, including those which are chargeable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items.

Examples of items to be included:

Rents payable under leases due subsequent to the date of the balance sheet which are not includible in account 754, "Miscellaneous accounts payable."

Amounts payable to others for unreported interline traffic.

Amounts payable to others for use of facilities, including equipment, for which bills have not been rendered.

Amounts payable to others for services for which bills have not been rendered.

NOTE: Do not include in this account the carrier's estimate of liability in respect of injuries to persons and loss and damage claims. Such estimated liability shall be credited to account 784, "Other deferred credits."

§ 10.760 *Taxes accrued.* This account shall be credited with the accruals of all taxes which have been concurrently charged to the appropriate income or other accounts for taxes. Such accruals may be based upon estimates, provided such estimates shall be adjusted so as to reflect in this account at all times the carrier's estimate of its unpaid liability for each of the several classes of taxes which have not been finally settled.

Vouchers for the current payment of taxes, including taxes for which accruals have not been made previously, shall be charged to this account. Taxes paid in advance shall also be charged to this account.

The records supporting the entries in this account shall be kept to show separately by classes of taxes the amount of the tax accruals for the current year and adjustments of accruals for prior years.

§ 10.761 *Other current liabilities.* There shall be included in this account the principal amount of unpresented bonds drawn for redemption through the operation of sinking and redemption fund agreements, also the principal amount of unpresented funded debt obligations, and receivers' and trustees' securities which have matured (for which provision has been made for current settlement), and other current liabilities not covered by accounts 751 to 760, inclusive.

§ 10.765 *Funded debt unmatured.* There shall be included in this account the total par value of unmatured debt (other than equipment obligations), maturing more than one year from date of issue, issued by the accounting company and not retired or canceled, and the total par value of similar unmatured debt of other companies, the payment of which has been assumed by the accounting company.

The amounts included in this account shall be divided so as to show the par value of (1) certificates or other evidences of funded debt (pledged and unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued; and (2) certificates or other evidences of funded debt issued and actually outstanding, being those not held by the company, its agents or trustees, or subject to its control.

The amounts included herein shall be further divided so as to show the amount of each class of funded debt, as follows:

(a) *Mortgage bonds.* Bonds secured by lien on physical property and not includible in the other subdivisions of this account.

(b) *Collateral trust bonds.* Bonds and notes secured by a lien on securities or other negotiable paper; and stock trust certificates that are similar in character to collateral trust bonds.

(c) *Income bonds.* Bonds which are a lien on a carrier's revenue alone, or bonds which, while being a lien on its property and franchises, can claim payment of interest only in case interest is earned.

(d) *Miscellaneous obligations.* All funded obligations not provided for by the other subdivisions of this account, also notes, unsecured certificates of indebtedness, debenture bonds, plain bonds, real estate mortgages executed or assumed and other similar obligations maturing more than one year from date of issue, but excluding liabilities for assessments for public improvements and those evidenced by conditional or deferred equipment purchase contracts for which provision is made in account 782, "Other liabilities," and account 766, "Equipment obligations," respectively.

(e) *Receipts outstanding for funded debt.* Receipts for payments on account of funded debt. When certificates are issued for amounts so paid, the par value shall be included in the account covering the class of funded debt for which the certificates are issued.

Each of the above classes shall also be divided into subclasses according to differences in mortgage or other lien or security therefor, rate of interest, interest dates, or date of maturity. Parts of any issue agreeing in other characteristics but maturing serially may be treated as of the same subclass.

Records shall be maintained in such manner as to show (1) securities the issuance or assumption of which has been authorized by the Commission under section 20a of the Interstate Commerce Act, and similar securities issued or assumed prior to the effective date of that provision of the act, and (2) other obligations of a kind which may legally be issued or assumed without such authorization.

NOTE A: Securities (other than equipment obligations) maturing one year or less from date of issue shall be included in accounts 769, "Amounts payable to affiliated companies," or 751, "Loans and notes payable," except that where an issue of securities maturing serially over a period of years contains short-term obligations such obligations may be included as funded debt. Matured funded debt shall be included in account 761, "Other current liabilities," if provision has been made for current settlement. If no provision has been made for current settlement, matured funded debt shall be included in account 768, "Debt in default," except that when the collection of matured funded debt of affiliated companies is not enforced by controlling companies, the principal amount (to the extent held by a controlling company) shall be included in account 769, "Amounts payable to affiliated companies."

NOTE B: For the purposes of the balance-sheet statement funded debt securities are considered to be nominally issued when certified by trustees and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company. They are considered to be actually issued when they have been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds them free from all control by the accounting company. All funded debt securities actually issued and not reacquired and held by or for the accounting company are considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require them to be considered as held alive and not canceled or retired, they are considered to be nominally outstanding.

NOTE C: Nonnegotiable notes having a maturity of more than one year after date of issue, held by affiliated companies, shall be included in account 769, "Amounts payable to affiliated companies."

NOTE D: In the general balance-sheet statement the total unmatured funded debt included in the account shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

§ 10.766 *Equipment obligations.* This account shall include the par value of equipment securities and the principal amount of contractual obligations including those maturing serially or payable in installments over a period of more than one year.

The amounts included herein shall be divided as follows:

(a) Principal amount of equipment securities including those maturing serially, issued or assumed by the accounting company or by receivers and trustees, which have been authorized by the Commission under section 20a of the Interstate Commerce Act and similar securities issued or assumed prior to the effective date of that provision of the Act.

(b) Principal sums of obligations for equipment purchased under conditional or deferred payment contracts, which may be legally entered into or assumed by the accounting company or by receivers and trustees, without authorization by the Commission.

NOTE: Amounts included in this account which are payable within one year from the date of the balance sheet shall be shown in a footnote thereto.

§ 10.767 *Receivers' and trustees' securities.* When receivers or trustees acting under the orders of a court are in possession of the property of the company, and under the order of such court issue or assume evidences of indebtedness (other than equipment securities or obligations) the par value of such evidences shall be credited to this account.

NOTE: The par value of equipment securities or the principal amount of obligations incurred for the purchase of equipment under conditional or deferred payment contracts shall be included in account 766, "Equipment obligations."

§ 10.768 *Debt in default.* This account shall include amounts transferred from other accounts representing matured funded securities or obligations, receivers' and trustees' securities, equipment obligations and short-term notes, when maturity dates of such obligations have not been extended.

NOTE A: The principal amount of matured funded debt of affiliated companies the collection of which is not enforced by the controlling company shall (to the extent of the principal amount held by the controlling company) be included in account 769, "Amounts payable to affiliated companies."

NOTE B: The principal amount of unpresented funded debt obligations which have matured, and for which provision has been made for payment shall be included in account 761, "Other current liabilities."

§ 10.769 *Amounts payable to affiliated companies.* This account shall include the par value of nonnegotiable notes issued to affiliated companies, matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension as to time of payment and collection of the principal is not enforced, credit balances in open accounts with such companies other than credit balances in current accounts classable as current liabilities, and interest accrued on notes, matured funded debt of affiliated companies and open accounts included in this account, when such interest is not subject to current settlements.

This account shall be divided:

(a) Notes, including herein not only nonnegotiable notes that run longer than a term of one year, but also such notes payable on demand or within one year from the date of issue when it is mutually agreed that the notes shall not be enforced as current assets by the holder.

(b) Par value of matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension of time and collection is not enforced.

(c) Open accounts not subject to current settlement.

(d) Interest accrued on amounts included in this account when not subject to current settlements.

NOTE A. Accounts with affiliated companies which are subject to current settlements, such as traffic and car-service balances, charges for material and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B. No item shall be included in this account which is not known to be the property of an affiliated company.

NOTE C. The term affiliated companies includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.

2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.

3. Companies controlled by controlled companies.

4. Companies controlled by controlling companies.

By "control" is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

§ 10.771 *Pension and welfare reserves.* This account shall include the credit balances representing the liability of the carrier for amounts provided by charges to operating expenses or by specific appropriations of income or surplus, including amounts contributed by employees, irrespective of whether carried in special funds or in the general funds of the carrier, for pensions, accident and death benefits, savings, relief, hospital, or other provident purposes.

Separate subaccounts shall be kept for each kind of reserve created, and the appropriate reserve shall be charged when payments are made to retired employees, or disbursements are made for the purposes for which the reserves were created.

§ 10.772 *Insurance reserves.* This account shall include the net credit balance in the accounts to which are credited insurance premiums concurrently charged to operating expenses to cover self-carried risks on fire, fidelity, boiler, casualty, burglar, and other insurance, and to which are charged losses sustained on items protected by such insurance.

§ 10.773 *Equalization reserves.* This account shall include ledger balances representing reserves created by charges to operating expenses for maintenance of road and equipment under a program designed to equalize such expenses by months within a calendar year. The debit or credit balances in this account shall be closed at the end of each calendar year to the accounts through which they were created.

§ 10.774 *Casualty and other reserves.* This account shall include reserves created by charges to operating expenses to provide for estimated liability for in-

juries to persons and loss and damage claims; estimated liability for revenue overcharges, such as those covered by reparation claims; and reserves not otherwise provided for in balance sheet accounts.

NOTE: With respect to injuries to persons and loss and damage claims, if the settlements when audited are charged to this account the balances for each year shall be kept separately until all items have been adjusted and cleared, but, if the settlements when audited are charged to the appropriate expense accounts the balance in this account shall be adjusted through the appropriate expense accounts so as to reflect the probable liability at the close of each year.

§ 10.781 *Interest in default.* This account shall include the amount of matured and unpaid interest (for which no provision has been made for current settlement) on all indebtedness issued or assumed by the accounting company except interest which is added to the principal of the debt on which incurred. Where interest is in default, subsequent accruals shall be credited direct to this account.

§ 10.782 *Other liabilities.* This account shall include assessments for public improvements payable over a period longer than one year; retained percentages due contractors to be paid upon completion of contracts; deposits for construction of side tracks to be refunded on basis of an agreed portion of the earnings from the traffic handled over the tracks; other deferred liabilities; and liabilities not otherwise provided for in general balance sheet accounts.

NOTE: The amount of assessments for public improvements, if payments are to be made within one year, shall be included in account 761, "Other current liabilities."

§ 10.783 *Unamortized premium on long-term debt.* This account shall include the total of the net credit balances in the discount, expense, and premium accounts for the several subclasses of funded debt.

§ 10.784 *Other deferred credits.* This account shall include the amount of credit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, such as amounts received from sale of mileage tickets, to be disposed of as mileage is honored; amounts received from sales of excess baggage script, to be disposed of as coupons are honored; interchangeable mileage credential ticket redemption funds; amounts collected from the sale of damaged, unclaimed and over freight held pending claim; credit balances in clearing accounts, such as "Shop expenses," "Store expenses," "Operating gravel pits," and "Operating quarries"; unadjusted credit items not otherwise provided for and similar items, the proper disposition of which is uncertain.

§ 10.785 *Accrued depreciation; leased property.* This account shall be credited with amounts concurrently charged to operating expenses or other accounts to cover the estimated accrued depreciation on leased road and equipment when settlements between the accounting company and the lessor are not made currently. It shall also be credited with depreciation accrued on property the cost of which is included in account 732, "Improvements on leased property." When leased property for which accruals have been included in this account is retired from service, the entire service value of property the cost of which has been charged to account 732 by the lessee and the service value of property, the ledger value of which is carried in account 731, "Road and equipment property," by the lessor for which the lessee is liable to the lessor shall be charged to this account.

§ 10.791 *Capital stock issued.* This account shall include the total par value of par value stock, and the total amount paid in or the amount approved by the Commission for stock without par value, for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued, and reacquired shares which have not been canceled.

Appropriations of surplus which have been transferred to no par stock account shall also be included. The amount of the consideration received from the sale of par value stock in excess of the amount credited to this account shall be credited to account 794, "Premiums and assessments on capital stock."

When capital stock is retired or canceled, this account shall be charged with the amount at which such stock is carried in this account. In the case of no par stock the amount to be charged hereto shall be the proportion, applicable to the reacquired shares immediately prior to reacquisition, of the total book liability included herein of actually outstanding shares of the particular class and series of stock of which the reacquired shares are a part.

The amounts included in this account shall be recorded so as to show:

(a) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock (pledged or unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including shares nominally but never actually issued and

(b) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock issued and actually outstanding, being the shares not held by the company, its agents or trustees, or subject to its control.

The amounts included herein shall be further divided so as to show the amount of each class of stock issued, separated as between par value and no par value stock, as follows:

(1) *Common stock.* Stocks which have no preference over other issues of stock in distribution of dividends or of assets.

(2) *Preferred stock.* Stocks having preference over other issues of stock in distribution of dividends or of assets.

(3) *Debenture stock.* Stocks issued under a contract to pay a specified return at specified intervals.

(4) *Receipts outstanding for installments paid.* Receipts for payments on account of subscriptions to capital stock.

When the subscriber has paid his subscription in full and is entitled to receive certificates representing the shares for which he has subscribed, the par value of stocks having par value or the agreed purchase price or the price authorized by the Commission of stock without par value shall be included in the division appropriate for the class for which the certificates are issued.

Each of the above classes shall also be divided into subclasses according to differences in dividend or interest rights, voting rights, or conditions under which the securities may be retired.

NOTE A: When a general levy or assessment is made against the holders of capital stock, requiring the payment of any sum in addition to the consideration agreed upon at the time of sale, the amount collected upon such levy or assessment shall be credited to account 794, "Premiums and assessments on capital stock."

NOTE B: When capital stock having par value is exchanged for capital stock without par value any sums resting in account 794, "Premiums and assessments on capital stock," with respect thereto shall be cleared to account 791, "Capital stock issued," and any amounts resting in the discount account with respect thereto shall be cleared to account 795, "Paid-in surplus"; *Provided, however,* That any excess over the amount of accumulated net gains applicable to the subclass exchanged included in paid-in surplus shall be charged to account 621, "Miscellaneous debits."

NOTE C: An appropriate record shall be maintained with respect to shares of capital stock showing the number of shares nominally issued, nominally outstanding, actually issued and actually outstanding.

NOTE D: For the purpose of the balance-sheet statement capital stock is considered to be nominally issued when certificates are signed and sealed and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company. It is considered to be actually issued when it has been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds it free from all control by the accounting company. All capital stock actually issued and not reacquired and held by or for the accounting company is considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require it to be considered as held alive and not canceled or retired, it is considered to be nominally outstanding.

§ 10.792 *Stock liability for conversion.* This account shall include the company's liability under agreements to exchange its capital stock for the outstanding securities of companies whose physical property has been acquired under such agreements, but whose securities have not yet been surrendered for exchange.

§ 10.793 *Discount on capital stock.* This account shall include discount suffered in the issuance and sale of capital stock. Record supporting the entries to this account shall be kept to show the discount suffered, if any, on each subclass of capital stock.

§ 10.794 *Premiums and assessments on capital stock.* This account shall include the excess of the actual cash value (at the time of the sale of the stock) of the consideration received over the

amounts recorded in account 791, "Capital stock issued," for par value stock plus accrued dividends, if any, also subsequent assessments against stockholders representing payments required in excess of par or other amounts recorded in account 791, "Capital stock issued," in accordance with the text of that account.

When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

§ 10.795 *Paid-in surplus.* This account shall include such items as amount of consent dividends on the accounting company's capital stock; surplus arising from donations by the accounting company's stockholders; amounts representing reduction of the par or recorded value of the accounting company's capital stock; amounts of forfeited subscriptions to the accounting company's capital stock; gains from the acquisition, retirement, or resale of reacquired shares of the accounting company's capital stock; and long-term debt of the accounting company forgiven by stockholders.

It shall be charged with amounts included herein when capitalized by stock dividends or otherwise with the approval of the Commission, and losses from retirement or resale of reacquired shares up to an amount not in excess of credits included herein applicable to the reacquired shares; and may be charged with the amortization of discount on capital stock to the extent of credits herein.

§ 10.796 *Other capital surplus.* This account shall include all capital surplus not provided for in account 795, "Paid-in surplus."

§ 10.797 *Retained income; appropriated.* This account shall include the total of the net balances of appropriations of income and earned surplus for the acquisition of capital assets; the retirement of debt; sinking and redemption funds; and all other appropriations specifically set aside in the hands of trustees as well as appropriations held in general funds for which no specific investment or segregation of assets has been made. It shall also include accretions to the assets held in such special funds.

A subdivision of this account shall be maintained by classes of appropriations, the titles of which shall indicate the purpose for which the appropriations were made.

§ 10,798 *Retained income; unappropriated.* This account shall include the net balance (debit or credit) of the amounts included in accounts 601 to 621, inclusive. It shall not include transfers either to or from accounts 795, "Paid-in surplus," or 796, "Other capital surplus," unless so authorized upon application to the Commission.

The balance of all profit and loss accounts (601 to 621, inclusive) shall be closed into this account at the end of each calendar year.

§ 10.799 *Form of general balance sheet statement.* The classified form of general balance sheet statement is designed to show the financial condition of the accounting company at any specified date.

ASSETS

Current assets:
- 701. Cash.
- 702. Temporary cash investments.
- 703. Special deposits.
- 704. Loans and notes receivable.
- 705. Traffic and car-service balances—Dr.
- 706. Net balances receivable from agents and conductors.
- 707. Miscellaneous accounts receivable.
- 708. Interest and dividends receivable.
- 709. Accrued accounts receivable.
- 710. Working fund advances.
- 711. Prepayments.
- 712. Material and supplies.
- 713. Other current assets.

Total current assets.

Special funds:
- 715. Sinking funds.
- 716. Capital and other reserve funds.
- 717. Insurance and other funds.

Total special funds.

Investments:
- 721. Investments in affiliated companies.
- 722. Other investments.
- 723. Reserve for adjustment of investment in securities—Cr.

Total investments.

Properties:
- 731. Road and equipment property.
- 732. Improvements on leased property.
- 733. Acquisition adjustment.
- 734. Donations and grants—Cr.

Total transportation property.
- 735. Accrued depreciation—Road and Equipment.
- 736. Amortization of defense projects—Road and Equipment.

Total transportation property less recorded depreciation and amortization.
- 737. Miscellaneous physical property.
- 738. Accrued depreciation—Miscellaneous physical property.

Miscellaneous physical property less recorded depreciation.

Total properties less recorded depreciation and amortization.

Other assets and deferred charges:
- 741. Other assets.
- 742. Unamortized discount on long-term debt.
- 743. Other deferred charges.

Total other assets and deferred charges.

Total assets.

LIABILITIES AND SHAREHOLDERS' EQUITY

Current liabilities:
- 751. Loans and notes payable.
- 752. Traffic and car-service balances—Cr.
- 753. Audited accounts and wages payable.
- 754. Miscellaneous accounts payable.
- 755. Interest matured unpaid.
- 756. Dividends matured unpaid.
- 757. Unmatured interest accrued.
- 758. Unmatured dividends declared.
- 759. Accrued accounts payable.
- 760. Taxes accrued.
- 761. Other current liabilities.

Total current liabilities.

Long-term debt:
- 765. Funded debt unmatured.
- 766. Equipment obligations.
- 767. Receivers' and Trustees' securities.
- 768. Debt in default.
- 769. Amounts payable to affiliated companies.

Total long-term debt (due within one year $).

Reserves:
- 771. Pension and welfare reserves.
- 772. Insurance reserves.
- 773. Equalization reserves.
- 774. Casualty and other reserves.

Total reserves.

Other liabilities and deferred credits:
- 781. Interest in default.
- 782. Other liabilities.
- 783. Unamortized premium on long-term debt.
- 784. Other deferred credits.
- 785. Accrued depreciation—Leased property.

Total other liabilities and deferred credits.

Shareholders' equity:

Capital stock (par or stated value):
- 791. Capital stock issued.
- 792. Stock liability for conversion.
- 793. Discount on capital stock.

Total capital stock.

Capital surplus:
- 794. Premiums and assessments on capital stock.
- 795. Paid-in surplus.
- 796. Other capital surplus.

Total capital surplus.

Retained income:
- 797. Retained income—Appropriated.
- 798. Retained income—Unappropriated.

Total retained income.

Total shareholders' equity.

Total liabilities and shareholders' equity.

APPENDIX

Hereinafter is a list of sections in this part which now include reference to numbers, or to numbers and titles of accounts which should be changed to conform to the modified numbers, or numbers and titles, assigned to those accounts by this order. Where both the number and title of an account have been changed, the old and new number and title are shown. If only a number is changed, the title is omitted.

If reference is made to the same account more than once in the same section or paragraph thereof, a parenthetical number, such as (2) or (3), will indicate the number of such references to be changed.

CFR Section No.	Present reference	Should be changed to read—
Code index	{§ 0.03-9 *Surplus*	(Delete.)
	{§ 10.701 to §10.790, inclusive	(As listed in new §10.799.)
§ 10.01-1	Account 701 (2)	Account 731.
	Account 702	Account 732.
	Account 702½A	Account 733.
	Account 702½B	Account 734.
	Account 705 (3)	Account 737.
§ 10.01-2:		
Paragraph (c) (1)	Account 702½B	Account 734.
Paragraph (c) (3)	Account 702½B	Account 734.
§ 10.01-7:		
Paragraph (a) (1)	702½O, "Accrued depreciation—Road".	735, "Accrued depreciation—Road and equipment."
Paragraph (a) (2) (d)	Account 716	Account 712.
Paragraph (a) (2) (f)	722, "Other deferred assets"	741, "Other assets."
	Account 701	Account 731.
	Account 702	Account 732.
	Account 706	Account 721.
	Account 707	Account 722.
	Account 757	Account 769.
§ 10.01-10	Account 705	Account 737.

CFR Section No.	Present reference	Should be changed to read—
§ 10.2: Note	Account 705 (2)	Account 737.
§ 10.6: Note A	702½C (title omitted)	735, "Accrued depreciation—Road and equipment."
§ 10.21: Note C	Account 705	Account 737.
§ 10.22: Note B	Account 705	Account 737.
§ 10.29: Note C	Account 705	Account 737.
§ 10.39: Note D	Account 768	Account 761.
Note F	770, "Other deferred liabilities" Account 705	782, "Other liabilities." Account 737.
§ 10.45: Note E	Account 705	Account 737.
§ 10.47: Note A	Account 716	Account 712.
Note B	Account 716	Account 712.
§ 10.50: 4th paragraph	702½D, "Accrued depreciation—Equipment." Account 716	735, "Accrued depreciation—Road and equipment." Account 712.
5th paragraph	722, "Other deferred assets"	741, "Other assets."
7th paragraph	702½D, "Accrued depreciation—Equipment." Account 716	735, "Accrued depreciation—Road and equipment." Account 712.
Note C	Account 716	Account 712.
§ 10.59: Note A	Account 716	Account 712.
Note B	Account 716	Account 712.
§ 10.71: Note	725, "Discount on funded debt"	742, "Unamortized discount on long-term debt."
§ 10.74: Note A	725, "Discount on funded debt"	742, "Unamortized discount on long-term debt."
§ 10.76: Note C	Account 765	Account 765.
§ 10.02-3	702½C, "Accrued depreciation—Road" 702½D, "Accrued depreciation—Equipment."	735, "Accrued depreciation—Road and ment."
§ 10.132: Note	Account 705	Account 737.
§ 10.04-6	726, "Property retired chargeable to operating expenses."	743, "Other deferred charges."
§ 10.04-8: Par. (a)	702½C, "Accrued depreciation—Road"	735, "Accrued depreciation—Road and equipment."
Par. (i)	702½C, "Accrued depreciation—Road"	735, "Accrued depreciation—Road and equipment."
Par. (k)	726, "Property retired chargeable to operating expenses."	743, "Other deferred charges."
§ 10.04-12: Last paragraph	Account 705	Account 737.
§ 10.04-19	Account 773½ (2)	Account 773.
§ 10.04-24: Paragraph (a)	702½D, "Accrued depreciation—Equipment."	735, "Accrued depreciation—Road and equipment."
Paragraph (b)	702½D, "Accrued depreciation—Equipment (2)."	735, "Accrued depreciation—Road and equipment."
Paragraph (f)	726, "Property retired chargeable to operating expenses."	743, "Other deferred charges."
§ 10.208: Note	702½C (title omitted)	735, "Accrued depreciation—Road and equipment."
§ 10.267: 1st paragraph	726, "Property retired chargeable to operating expenses."	743, "Other deferred charges."
2d paragraph	702½E, "Accrued amortization of defense projects—Road." Account 773½	736, "Amortization of defense projects—Road and equipment." Account 773.
§ 10.280		
§ 10.330: 1st paragraph	726, "Property retired chargeable to operating expenses."	743, "Other deferred charges."
2d paragraph	702½F, "Accrued amortization of defense projects—Equipment." Account 773½	736, "Amortization of defense projects—Road and equipment." Account 773.
§ 10.338		
§ 10.457: Paragraph (b)	769 (title omitted) (3)	771, "Pension and welfare reserves."

CFR Section No.	Present reference	Should be changed to read—
§ 10.458: Note B	725, "Discount of funded debt"	742, "Unamortized discount on long-term debt."
§ 10.05-2: 1st paragraph	Account 779	Account 785.
§ 10.502	Account 705	Account 737.
§ 10.504	Account 717	Account 708.
§ 10.505	Account 717	Account 708.
§ 10.506	Account 717	Account 708.
§ 10.507	Account 717	Account 708.
§ 10.509	Account 717	Account 708.
§ 10.510: Note C	Account 705	Account 737.
§ 10.511	Account 705	Account 737.
§ 10.513: 2d paragraph	Account 717	Account 708.
§ 10.514: 2d paragraph	Account 717	Account 708.
§ 10.516	Account 717	Account 708.
§ 10.534	Account 705	Account 737.
§ 10.535	Account 705	Account 737.
§ 10.544	Account 705	Account 737.
§ 10.546	Account 765	Account 765.
	Account 765½	Account 768.
	Account 766	Account 767.
	Account 766½	Account 766.
	Account 767	Account 769.
§ 10.552: Note A	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.553: 1st paragraph	751, "Capital stock"	701, "Capital stock issued."
§ 10.554: 1st paragraph	Account 705	Account 737.
Note B	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.555	Account 754	Account 793.
§ 10.556: Note B	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.07	786, "Earned surplus—Unappropriated"	798, "Retained income—Unappropriated."
§ 10.607: 4th paragraph	Account 701	Account 731.
6th paragraph	Account 705	Account 737.
§ 10.613: Note A	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.614: 1st paragraph	751, "Capital stock"	701, "Capital stock issued."
§ 10.615: 1st paragraph	Account 705	Account 737.
Note B	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.618: Note B	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.621: 4th paragraph	Account 705	Account 737.
6th paragraph	Account 701	Account 731.
7th paragraph	Account 705	Account 737.
	Account 701	Account 731.
§ 10.08-2: 2d paragraph	Account 754	Account 793.
	Account 753	Account 794.
5th paragraph	Account 753	Account 794.
	Account 784-1	Account 795.
	Account 754	Account 793.
6th paragraph	Account 784-1	Account 795.
7th paragraph	751, "Capital stock"	791, "Capital stock issued."
	Account 703	Account 715.
	Account 704	Account 716.
	Account 721	Account 717.
	728, "Securities issued or assumed—Unpledged." 729, "Securities issued or assumed—Pledged."	(Delete.)
8th paragraph	751, "Capital stock"	791, "Capital stock issued."
	Account 753	Account 794.
	Account 754	Account 793.
	Account 784-1	Account 795.
9th paragraph	Account 784-1	Account 795.
§ 10.08-3: 1st paragraph	Account 755	Account 765.
4th paragraph	725, "Discount on funded debt"	742, "Unamortized discount on long-term debt."
	772, "Premium on funded debt"	783, "Unamortized premium on long-term debt."

CFR Section No.	Present reference	Should be changed to read—
§ 10.08-5: Paragraph (c)	Account 705	Account 721.
	Account 707	Account 722.
	707½, "Reserve for adjustment of investment in securities."	723, "Reserve for adjustment of investment in securities—Cr."
§ 10.08-6	Account 703	Account 715.
	Account 721	Account 717.
	785, "Earned surplus—Appropriated"	797, "Retained income—Appropriated."
§ 10.08-7	Account 708	Account 701.
	Account 719	Account 713.
	722, "Other deferred assets"	741, "Other assets."

[F. R. Doc. 56-7069; Filed, Sept. 6, 1956; 8:45 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter B—Hunting and Possession of Wildlife

PART 6—MIGRATORY BIRDS

Correction

In Federal Register Document 56-6990, appearing at page 6596 of the issue for Saturday, September 1, 1956, the following changes should be made in § 6.51 (d):

1. In footnote 1 to the paragraph, the reference to "footnote 7" should read "footnote 6".

2. At the end of footnote 5 to the table "Nov. 1–Nov. 23" should read "Nov. 1–Nov. 25".

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 923, 972, 1012]

[Docket Nos. AO-251-A1, AO-177-A15, AO-278]

HANDLING OF MILK IN APPALACHIAN, TRI-STATE AND BLUEFIELD MARKETING AREAS

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER FOR APPALACHIAN MARKETING AREA AND PROPOSED MARKETING AGREEMENT AND ORDER FOR THE BLUEFIELD MARKETING AREA

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Bluefield, West Virginia, February 6–10, 1956, pursuant to notice duly published in the FEDERAL REGISTER on January 21, 1956 (21 F. R. 499).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on August 1, 1956 (21 F. R. 5824) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and notice of oportunity to file written exceptions thereto.

Preliminary statement. A public hearing on the record of which the recommended regulatory provisions set forth below with respect to the Appalachian and Bluefield marketing areas were formulated was called by the Agricultural Marketing Service, United States Department of Agriculture, following receipt of a petition filed by the Tri-State Milk Producers Association, Inc. The hearing was held at Bluefield, West Virginia, February 6–10, 1956, pursuant to notice duly published in the FEDERAL REGISTER on January 21, 1956 (21 F. R. 499). The period until March 24, 1956, was reserved to interested parties for the filing of briefs on the record.

The hearing gave consideration, among other things, to the alternative possibilities of (1) expanding the present Appalachian marketing area to regulate the handling of milk in all or part of certain counties in Virginia, West Virginia, and Kentucky referred to as the "Bluefield market"; (2) expanding the present Tri-State marketing area (Huntington district) to regulate the handling of milk in all or part of such counties; or (3) issuing one or more separate orders to regulate the handling of milk in all or part of such counties.

In view of the findings and conclusions set forth below with respect to the need for regulation in the proposed Bluefield marketing area and to the location and organization of such market, it is concluded that the marketing of milk in such marketing area and that in the Tri-State marketing area do not warrant regulation on common terms. It is concluded, therefore, that the record of this hearing does not support expansion of the Tri-State marketing area or need for amendment of any other provision of the order for the latter marketing area. The extent of the relationship existing between the Appalachian and Bluefield markets is discussed below.

At the opening of the hearing, certain distributors of milk serving the proposed Bluefield marketing area moved that consideration be given on this hearing only to the evidence concerning the proper marketing area to be regulated, and that any decision on the handling of milk in the Bluefield market made as the result of the hearing be limited to a determination as to what counties or areas should be made subject to regulation. It was further moved that following a decision on the extent of the area to be regulated, the hearing should be reopened to receive evidence as to the specific regulatory terms and provisions which should be applied. These motions were renewed after the receipt of evidence on the marketing area proposals and again in the brief filed on behalf of such handlers.

Careful consideration has been given to the motions. It is concluded, however, in light of the findings and conclusions which follow, that the record provides a basis for appropriate regulation of the Bluefield marketing area as proposed herein. The motions (1) to limit the current decision to a determination of the area to be regulated, and (2) to reopen the hearing for further evidence on other issues following such a determination, are hereby denied.

Rulings on exceptions. In arriving at the findings and conclusions included in this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions herein are at variance with the exceptions, such exceptions are overruled.

Proposed amendments to the Appalachian order—Statement of issues. The material issues of record concerning proposals to amend the provisions of the order regulating the handling of milk in the Appalachian marketing area related to:

1. Whether the Appalachian marketing area should be extended so as to regulate a number of additional counties, including those proposed herein for regulation under a separate order for the Bluefield marketing area.
2. Revision of the definition of "fluid milk plant."
3. Modification of the rules relating to inter-plant transfers of milk.
4. Revision of the computation of uniform prices for base milk and excess milk.
5. Inclusion of a provision for "advance" payments to producers who are members of a cooperative association.
6. Revisions concerning the classification of milk, with particular reference to the computation of shrinkage, the allocation of other source milk, and the classification of skim milk and butterfat utilized as livestock feed or dumped.
7. Modification of the price formula for Class II milk.
8. Revision of the base-forming and base-operating periods and of rules governing base transfers.
9. The introduction of a "supply-demand adjustor" in the Class I price formula; also establishment of an appropriate price for Class I milk in the proposed expanded segment of the marketing area, and
10. Review of all other regulatory provisions and possible changes for administrative purposes.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, the following findings and conclusions are hereby made with respect to the proposed amendments to the Appalachian marketing order:

1. *Appalachian marketing area.* Producers proposed that the counties of Dickenson and Russell in Virginia be included within the Appalachian marketing area.

They testified that scheduled power plant construction and improvement in the demand for coal in Russell and Dickenson counties, Virginia, would increase the demand for dairy products in these counties. Also, that an increase in demand for dairy products may encourage unregulated handlers to distribute dairy products in these counties.

One handler testified that the principal competitors for sales in these two counties are regulated currently. He testified further that because of the rural population there is relatively little milk sold in these counties at this time.

These two counties are only sparsely populated and are not a problem area for producers. There are no milk distributing plants located in such counties. Competition between Appalachian handlers and milk distributors from the proposed Bluefield market for sales in these counties may not be considered sufficient, or to have such adverse effect on the distribution of milk by Appalachian handlers, to require regulation of the Bluefield distributors under the Appalachian order. Moreover, in the event an order for the Bluefield marketing area is made effective, distributors from such market operating routes in Russell and Dickenson counties will be subject to price regulation on terms highly comparable to those applicable under the Appalachian order. It is concluded that the Appalachian marketing area should not be expanded, as proposed by producers, to include Dickenson and Russell counties, Virginia.

There is need for clarification of the marketing area definition. In the Virginia section of the marketing area the corporate municipalities are separate from the counties in which they are located. For example, the city of Bristol, Virginia, geographically located in Washington County, Virginia, is a separate corporate municipality and a question arose at the hearing concerning whether the marketing area definition clearly includes such city. In order that the definition of the Appalachian marketing area may be completely clear as to the entire area included, it should be restated to specify that all territory geographically located within the perimeters of the counties of Sullivan, Washington, and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky is included in the marketing area.

2. *Fluid milk plant.* Producers proposed that plants which furnish supplemental supplies of milk to the market be included in the definition of "fluid milk plant" when any such plant supplies a monthly total in excess of 70,000 pounds of milk in any of the months of August through January, inclusive. Producers contended that such plants are a threat to the stability of the market because they are able to deliver large quantities of milk during the low production months from sources without being subject to minimum price regulation under this order.

Handlers objected to this proposal, on the basis that they would be denied the opportunity of procuring supplemental supplies from unregulated sources.

One handler receives supplemental supplies of approximately 400,000 pounds of milk per month from other regulated markets. This handler's supplemental supply of milk represents a substantial portion of the total quantity of all milk received from sources other than producers. He testified that he had not encountered difficulty in obtaining supplemental supplies of milk from regulated sources. Other handlers also receive milk from other regulated markets as well as from unregulated sources.

Three methods of defining a "fluid milk plant" in terms of its association with the market through delivery performance are possible:

(1) Exemption from regulation regardless of quantities delivered,

(2) Full regulation regardless of quantities delivered (except plants already under regulation by another order), or

(3) Partial exemption on the basis of a minimum delivery requirement.

If handlers were permitted to receive milk from outside the order in unlimited quantities a significant percentage of the market supply of milk in the fall months would not be subject in any way to the pricing and payment provisions of the Appalachian order or of any similar regulation. This could result in (1) a portion of the market supply being procured on a "flat price" basis without regard to the use of milk as distinguished from the classified-price plan provided in the order, (2) limiting the effectiveness of the pricing and payment provisions of the order as a means of encouraging farmers to produce a year-round supply of pure and wholesome milk for the Appalachian market, and (3) an incentive to handlers to use milk from sources outside regulation in preference to seeking an adequate supply of producer milk in all months. These factors would create a constant threat to the classified price plan and would not be consonant with the ends sought by the regulation.

Under the second method all plants supplying supplemental supplies of milk, even in small quantities (except those already under regulation by another order) would be regulated. Factors limiting the advisability of this method are as follows:

(1) The Appalachian order might be imposed upon plants with primary attachment to another market.

(2) Plants shipping only small, or incidental, amounts of milk would be brought under regulation, resulting in extra expense to the plant operator and increasing administrative expense without necessity in terms of attaining stabilized marketing conditions for producers' milk.

(3) Local producers of Grade A milk might be forced to share a greater proportion of their Class I market with producers shipping milk not meeting equivalent health requirements.

(4) Administrative problems would be incurred in administering the order with respect to plants located at considerable distances from the market.

In view of the above a partial exemption provision is appropriate. After consideration of the size of the plant operations in the market, the supplemental sources available, the extent to which other source milk must be relied upon to satisfy Class I requirements and the necessity for maintaining an adequate reserve of milk, it is concluded that an exemption allowance of 70,000 pounds of milk (approximately two full tank loads) is reasonable. In this connection official notice is taken of the partial exemption provision of the Tri-State order (§ 972.8) under which a supply plant is regulated if it supplies only 25,000 pounds or more (or an amount of skim milk or butterfat from which 25,000 pounds or more of Class I milk are derived) to the Tri-State market. This limitation has been operative in the Tri-State market since May 1, 1954. It is concluded that any plant should be regulated as a fluid milk plant when it furnishes milk, skim milk, or cream in fluid form in excess of 70,000 pounds for the month during the period August through January, inclusive.

3. *Transfers and diversions of milk.* A revision of the conditions on which milk may be transferred to nonfluid milk plants as Class II milk was proposed by producers. They would extend the distance within which a Class II classification may apply from the present radius of 50 miles to a radius of 100 miles from the marketing area. It was stated that such change would permit movements of milk for Class II use to a nonfluid milk plant 70 miles from Bluefield, West Virginia, that has been used at times as a surplus milk outlet for the Bluefield market and is accessible to the Appalachian market.

Handlers first proposed that a mileage limitation be omitted as a condition necessary to the transfer of milk to nonfluid milk plants for use as Class II milk. After further consideration specific suggestions for mileage limitations of 250 miles and 350 miles from the transferor-plant were offered. Any milk moved beyond the particular distance fixed would become Class I milk automatically. One handler reported an offer to have surplus milk hauled to a company manufacturing plant at Columbia, Tennessee, about 350 miles from Bristol, at rates which, it was stated, would make it feasible for such handler to so move the milk for manufacturing purposes.

The order provides that producer milk will be paid for in accordance with the form in which, or the purpose for which, it is used. Classification based only on the purpose for which producer milk is used would require verification of the receipts and final utilization of milk at nonfluid milk plants regardless of the distance or number of nonfluid milk plants involved. Consideration should be given to the increased administrative cost when it is necessary to verify the final use of milk, skim milk, or cream transferred to plants not under regulation.

When the market in its entirety is considered, the volume of surplus milk, even in the peak production months, is not sufficient to require milk to be moved 350 miles for manufacturing. One handler finds it necessary to import a substantial volume of other source milk for Class I use throughout the entire year. In addition, at least four nonfluid milk plants within a distance of approximately 150 miles of Kingsport, Tennessee, are

available as outlets for surplus milk. In view of the administrative necessity for limiting the area within which milk may be moved for Class II purposes the interplant transfer provisions should be changed so that milk moved to a nonfluid milk plant less than 150 miles from Kingsport, Tennessee, by the shortest hard-surfaced highway distance, may be classified as Class II milk under certain conditions.

4. *Base and excess price computations.* Producers proposed revisions in the methods of computing the uniform prices for "base milk" and "excess milk" to prevent the uniform price of excess milk from exceeding that of base milk. They claimed that an excess price that exceeds the base price is not in accord with the principle, involved in the base-excess plan, of providing returns to producers which are related directly to a producer's ability to deliver additional supplies of milk in the fall and winter months and relatively smaller supplies of milk during the flush production months.

The order presently provides that uniform prices for base and excess milk shall be computed for each handler for certain months of the year. When the total Class I milk of the handler does not exceed his total base milk receipts, the value of excess milk is determined by multiplying the amount of such milk by the Class II price. The value of base milk is then computed by deducting such value of excess milk from the net obligation of the handler. The order further provides that if the value of base milk computed in this manner exceeds an amount computed by multiplying the pounds of base milk by the Class I milk price, such additional amount is added to the value of excess milk.

Handlers with a high percentage of Class I utilization frequently have experienced a shortage of producer milk in relation to Class I sales in this market. In addition, audit adjustments, inventory reclassifications, and overages may increase the total value of producer milk in a given month. As a result, it is possible for the price of excess milk of a handler to increase, under present order provisions, above the level of base milk (at the Class I price level). No particular purpose is served in terms of moderating the seasonality of milk deliveries when the excess price exceeds the base price. It is concluded therefore that whenever the excess price would exceed the base price the base and excess prices should be recomputed so that they are equal to each other.

5. *Advance payments.* It was proposed that handlers, upon request of a cooperative association, be required to make "advance" payments to the association with respect to member milk in addition to the regular monthly payments. The advance payments would be made on the 23rd day of each month on milk received from those member producers who have requested an advance from the cooperative association for their deliveries of milk during the first fifteen days of such month. The rate of payment would not be less than the Class II price per hundredweight for the preceding month. It was testified that an advance payment for milk would assist producers in defraying production costs more promptly.

Handlers suggested that if advance payments are provided for they be made available to all producers, members or nonmembers of an association, on or before the last day of each month, for milk received during the first fifteen days of such month, at a rate not less than the Class II price per hundredweight for the preceding month. One handler testified that in past years his company had made advance payments for the milk received from farmers during the first fifteen days of the month.

Advance payments are customarily made on a voluntary basis in this market. There is no evidence that handlers have refused to make advance payments to producers when requested. There was no request for an advance payment provision which would apply to all producers. It is concluded that an advance payment provision is not necessary at this time.

6. *Classification of milk.* The definition of Class II milk should be revised.

Milk returned to plants from handlers' routes in this market frequently cannot be processed for resale as other dairy products. Some milk and milk products are either dumped or disposed of as animal feed. There is need, for administrative purposes, to specify additional categories of Class II milk since administrative difficulty has been encountered in determining the proper classification of products disposed of as animal feed on the basis of the wording of present class definitions. In some cases where small quantities are involved dumping is the only practical outlet. This may be particularly necessary during April, May, June and July.

It is concluded that skim milk which is dumped during the months of April, May, June, and July, and skim milk disposed of as animal feed, should be included in Class II milk. Because dumping can be verified only at the time the action is taken, the handler should be required to give six hours' advance notice to the market administrator so that the market administrator may arrange for an inspection of the dumping if he believes it advisable.

Handlers proposed that actual shrinkage not in excess of 2 percent of total producer receipts of skim milk and butterfat be allocated to Class II milk. Also, that actual shrinkage of all other source milk be allocated to such class. However, when producer milk was utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage of skim milk and butterfat allocated to producer milk and other source milk would be computed pro rata according to the proportions of skim milk and butterfat received from such sources, respectively, to their total. It was contended that under a classified-price plan shrinkage should be in the lowest-priced class since it has no actual value in usage.

One handler suggested a modified proposal under which (1) actual shrinkage not in excess of 2 percent of total producer receipts (other than receipts from the pool plant of another handler) of skim milk and butterfat would be allocated to Class II milk, and (2) shrinkage of skim and butterfat classified as Class II milk would be prorated between producer and other source milk. Reasons given by the latter handler for the above shrinkage computation and allocation were as follows: (1) Skim milk and butterfat allocated to Class I should include only milk actually used in making sales, (2) the weights of fluid milk received compared with the fluid milk sold as computed from conversion factors (used in changing units such as quarts, etc. to pounds of fluid milk, and "make" factors used in converting manufactured milk products to their equivalent pounds of fluid milk) leave little need for the computation of shrinkage by formula, (3) a reduction in the loss of milk can be achieved only at the sacrifice of other efficiencies in the fluid milk plant operation, (4) health regulations prevent the full use of milk at the beginning or end of a fluid milk operation, and (5) handlers receive no return from shrinkage but producers would receive the Class II price if allocated to Class II milk.

In opposing, producers testified that the allocation of a maximum of 2 percent of all producer receipts to Class II as shrinkage and the proration of this shrinkage between other source milk and producer receipts of milk would reduce returns to producers for their milk deliveries. It was claimed such a provision would permit handlers selling all producer milk in Class I to pay for a portion of their milk at the Class II price even though no shrinkage could be attributed to the manufacture of a Class II product. Producers contended that if the proposal were adopted they could be penalized for the inefficiencies of a plant's operation and for inaccuracies in the handler's accounting procedures. It was suggested that the percentage of skim milk and butterfat in shrinkage allocated to Class II continue to be not greater than that which the actual quantity of producer milk utilized by the handler in Class II bears to his total receipts of producer milk.

The present provisions for the assignment of shrinkage (2 percent maximum) to Class II milk were developed in conjunction with the class price structure currently in effect in the Appalachian market. Any change in the shrinkage allowances in Class II milk would involve correlative adjustments in the class prices if producer returns are not to be affected.

Since handlers experienced approximately 1 percent shrinkage (annual average) of total receipts for 1955 the effect of the proposal, together with appropriate price adjustments, would be so minor that no significant change in the relationship of handler costs one to another would result. In view of the above, the proposal is denied.

One handler proposed that accounting periods of less than a full month be permitted under certain circumstances. It was testified that seasonal changes in supplies and sales necessitate importations of other source milk. Reference was made to the seasonal pattern of local milk production under which considerable quantities of milk are produced in the spring and summer months and sub-

stantially less in the fall and winter; also, that the opening and closing of schools causes rather drastic changes in Class I sales twice a year. In December, there is a characteristic decrease in Class I sales in the closing days of the month.

The primary purpose of the proponent in making this proposal was to provide that when producer milk became short within a period less than a month, and outside supplies were necessary, such supplies could be acquired and assigned to Class I. It was further stated that there are about three months in particular when other source milk is actually used in fulfilling Class I sales but is allocated to Class II milk under the monthly reporting and accounting system. This handler presented percentages to show that at times he needed additional milk during a given month while at other times during the same month he had an excess of producer milk. As a result, it was contended that the producer milk received by such plant was virtually all paid for at the Class I price even though some producer milk was physically disposed of in Class II products. Although supplemental purchases were restricted to a minimum, there was some surplus producer milk in the plant at different times of the month. Proponent contended that to allocate producer milk to Class I, through the monthly accounting method, results in arbitrary and inaccurate classification.

On the other hand, proponent recognized the burden of daily accounting and classification. It was proposed that, as a compromise method, handlers be permitted to report their receipts and utilization on accounting periods consisting of not less than seven days. This privilege to the handler would be applied with respect to any three months of the year. The election by the handler of multiple accounting periods within a month was not intended, however, to alter the present practice of computing his total obligation for the month or the payment of uniform prices for base and excess milk on a monthly basis.

The administrative burden to both the handler and the market administrator of daily reporting and accounting under milk orders is well recognized through the industry. The monthly accounting system has become the standard under this type of regulation and is generally accepted as the most practical method of applying the provision of the act which requires milk to be classified "in accordance with the form in which or the purpose for which it is used * * *". There are administrative limitations involved in accounting for specific "lots" of milk according to actual, or physical, disposition and allocation provisions such as those in question are necessary to distinguish the uses of "producer" and "other source milk" for classification purposes. The latter provisions eliminate the impossible administrative task of ascertaining the particular use of each hundredweight of milk regardless of source and make possible an accounting system of practical application. The extent to which producer milk may be given priority assignment of higher-valued uses has been established as the prerogative of the Secretary in formulating provisions which will provide reasonable protection to producers from the substitution of unregulated (unpriced) milk and thus promote orderly marketing. In any event, the handler is not compelled to pay producers for any greater utilization of milk than he actually makes in the particular class.

To operate a fluid milk distributing business individual handlers must choose either to maintain a sufficient volume of producer milk in reserve to meet fully the needs of their fluid milk (Class I) operation or to buy short from regular producers in the low production months with the intent of procuring supplementary supplies as necessary to fulfill Class I requirements. Although the handler buying supplementary supplies customarily pays a handling charge to the seller and transportation costs, which, when added to the price paid, increase the cost of such milk above the Class II price under the order, the handler carrying sufficient reserves to meet his needs at all times may retain such milk only at a cost, including the expense of moving such milk to manufacturing plants from time to time, which may seem a burden to his total operation, but which he determines is justified to assure himself of an adequate supply of producer milk. In either case the costs involved are not attributable to order regulation. The handler determines which method of operation is most economical in his particular circumstance. A proper method of allocation should not depend upon these relative costs.

The allocation of other source milk through multiple reporting periods would provide an incentive for handlers to use unpriced milk in preference to producer milk priced under the order. Thus, producer returns could be jeopardized and subject to considerable instability when handlers use other source milk for Class I purposes. Handlers could bring in more milk than was absolutely essential in the confidence that it would be credited at the Class I price. Such displacement of producer milk from Class I would mean that producer milk would be sold at a lower class price. As a result, producer returns would decrease resulting in less incentive to milk production, or class prices would have to be increased. Since it would not be feasible to increase Class II price to maintain producer returns, the alternative would be to increase the Class I price. Thus, the cost to consumers of maintaining an adequate and dependable supply of milk would be increased.

It must be recognized further that some handlers would not need to avail themselves of the privilege of reporting more than once a month at any time. A handler may carry in his plant all the necessary reserve of producer milk for Class I milk operations, eliminating the need to import outside milk, or may carry, as in the case of one Appalachian handler, so small a quantity of producer milk in relation to his Class I sales that such a provision would be of no significant benefit. Since the division of a month into two or more reporting and classification periods necessarily implies an accounting method which would permit proof of receipts, sales, inventories, and shrinkage for each such period within a month, the administrative effect is comparable to that involved in the longer period of a full month. The administrative functions of the market administrator's office primarily affected by this proposal are those of report processing and auditing. These are the most time consuming functions associated with order administration. They involve the bulk of the administrative cost. Thus, all handlers, rather than those electing the multiple reporting periods, would be required to bear the additional administrative cost of applying the order on the proposed basis.

In view of the above facts, the proposal for multiple reporting periods is denied. However, since it is necessary at times to allocate both regulated (priced under another Federal order) and unregulated milk from outside sources as "other source milk" in Appalachian plants, it is reasonable to allocate the unregulated milk first to the lowest-valued uses prior to the allocation of priced milk to any such use. The order has been so amended.

7. *Class II pricing formula.* Handlers proposed that the Class II pricing formula should be, in all months, the average of prices paid for milk received from dairy farmers at nine local manufacturing plants. At present this average price is used as the Class II price for the months of March through August only. Handlers noted, in this connection, the proposal of producers for a "supply-demand adjustment" factor to be included in the Class I price formula. It was contended that if such a provision were to develop a full year-round supply for the market there would be reserve quantities of milk in the fall months as well as in the flush production season which necessarily would fall into Class II uses. On this basis, it was argued that Class II milk should be priced in the fall months at the same level as the milk which must be used for manufacturing purposes in the months of March through August.

During the months of below-average production a higher level of prices for Class II milk should be provided so as to encourage the transfer of milk from manufacturing to higher-valued uses. In these months there are available outlets for reserve milk in cottage cheese and ice cream which among surplus uses are considered as preferred outlets. Producer receipts were sufficient in only two months during the flush production season of 1955 to cover Class I sales and to provide reasonable Class I reserves. The months of September through February are the months when substantial volumes of milk are received from sources other than local producers, to supply the Class I needs of the market as well as some Class II milk uses. Supplemental supplies of milk during the short production season are received from areas where the price of milk used in the manufacture of butter and nonfat dry milk solids is an important factor in establishing the prevailing farm values of manufacturing milk. It is concluded that the proposed reduction of Class II prices for the months of September through February

is not necessary in order to achieve the orderly marketing of milk in this area.

However, it is noted that for the purpose of computing the butter-nonfat dry milk solids price formula for Class II milk and the butterfat differential for adjusting the Class II price the price of 92-score butter at New York is used in lieu of the Chicago butter price as employed in the basic formula price. Since central market pricing of butter and nonfat dry milk solids at Chicago are basic to the price structure for the Appalachian market, it is consistent to utilize the Chicago butter price in connection with the Class II price and butterfat differential computations also. In order to provide a comparable basis of pricing throughout, the Chicago butter price is substituted for the New York butter price in the Class II price and Class II butterfat differential formulas.

8. *Base and excess plan.* Handlers proposed amendments to the base and excess plan. They would have producers establish bases in the period of August through January as a means of providing the proper incentive to farmers to produce adequate milk for the short production months. In addition, handlers would change the "base-paying" period from the months of April through August to the months of March through July. Producers supported these changes with the exception that they be given sufficient notice of the revised "base-forming" period. They contended that farmers should be given substantial advance notice in order to change breeding programs and suggested that the handlers' proposal be made effective in August 1957.

The flush production season occurs in the months of April, May, June and July. During 1955, the production of milk exceeded the needs for Class I and reasonable Class I reserve requirements only in the months of May and June. One handler finds it necessary to receive substantial volumes of Class I milk in all months of the year. Production and Class I requirements are approximately identical in August, whereas February and March are months of short production as compared to Class I requirements. It would not be in the interest of an improved production pattern to decrease the incentive to farmers for the production of milk in February and March for a probable increased incentive in August in view of these previously stated conditions. Because the market has little surplus milk in August and production is in close balance with Class I requirements, August should be excluded from the "base-paying" period. Therefore, it is concluded that the "base-paying" period should include the months of April through July.

Producers proposed the unqualified transfer of base upon notification in writing to the market administrator on or before the last day of any month. In addition, if the base were held jointly and such joint holding were terminated, the entire base transferable by any joint holder would be his portion of such jointly held base as indicated by the joint holders. Handlers supported the proposal to remove the present limitations on base transfers provided that in each instance the base would accompany transfer of the herd.

The producers' proposal opens the possibility of abuse which could be highly detrimental to the base-excess plan. One handler in this market continuously disposes of all producer milk as Class I milk because of a deficit producer milk supply at his plant. Producers who deliver to this handler would be able, under the proposed plan, to sell or loan their bases to other producers who deliver to other handlers in the market, without loss of the base price (in this instance the Class I price) for all milk delivered during the base-paying period. A producer delivering milk to another handler and who otherwise would be paid for some excess milk as the result of his original base, thus would receive the base price for some, or perhaps all, of this excess milk under the additional base received from the other producer. In order to preserve the effectiveness of the base plan any transfer should be limited, in these circumstances, to situations where changes in the operation of a farm result because of new ownership, the death, retirement or entry into military service of a producer, or changes in partnership or tenant-landlord arrangement occur. Since the base plan is effective in determining producer payments in only four of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained in the order, and particularly the proposals considered herein, for the transfer of bases are unnecessary.

9. *Supply-demand adjustment.* Producers proposed that a "supply-demand adjustment" factor be included in the Class I price formula to reflect automatically changes in local supply and demand conditions. They contended that a supply-demand adjustment factor is essential in obtaining increased supplies of producer milk to meet market needs and inducing producers to remain with handlers in this market.

Handlers opposed the inclusion of a supply-demand adjustment factor in the Class I price formula. They stated that an increase in milk supplies for Grade A purposes from this production area is doubtful because of the lack of additional dairy farms.

Although a supply-demand adjustment factor in the pricing formula conceived from local data would be desirable and serve a useful purpose, it is concluded that the development of such a factor from the data available at present, would not reflect the Appalachian marketing conditions adequately and should be delayed until the Appalachian market has had additional experience under the order. Adequate market experience under regulation is desirable as a basis for determining with accuracy the seasonal patterns of production and demand for use in connection with such a formula.

In view of the discussion on the regulation of the Bluefield market under a separate order, as set forth in another section of this decision, no further consideration with respect to Class I pricing in the proposed extension of the Appalachian marketing area is necessary in connection with the proposed amendments to the Appalachian order.

10. Certain changes of an administrative nature should be made. Distribution facilities which formerly were receiving, processing, or bottling plants are in certain circumstances regulated as "fluid milk plants." The designation of these distribution facilities as fluid milk plants unnecessarily involves the classification and allocation of milk and milk products received at these facilities in finished form. It is concluded that the fluid milk plant definition should not include those buildings, premises, or facilities the primary function of which is to hold or store bottled milk or milk products in finished form while in transit for wholesale or retail route distribution.

The pricing provisions of the order should be revised so that the reporting period for the Chicago butter and nonfat dry milk solids price will conform with the period used by the reporting agency within the Department. Therefore, the reporting period designated in the order for any given month is revised to include the period from the 26th day of the immediately preceding month through the 25th day of the current month.

General findings. (a) The proposed marketing agreement and the order as hereby proposed to be amended, and all the terms and conditions thereof will tend to effectuate the declared policy of the act:

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Proposed marketing agreement and order for the Bluefield marketing area—Statement of issues. The material issues of record with respect to the proposed marketing agreement and order regulating the handling of milk in the Bluefield marketing area related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification of milk;

(c) The level and method of determining class prices;

(d) The method to be used in distributing proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, the following findings and conclusions are hereby made with respect to the proposed marketing agreement and order regulating the handling of milk in the Bluefield marketing area:

Commerce in milk. The handling of milk in the Bluefield marketing area, as defined herein, is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and milk products.

The marketing area defined in the proposed order includes the counties of Mercer and McDowell in the State of West Virginia, and Tazewell County in Virginia. There are continuous and substantial movements of milk across state lines both in the procurement of milk from producers supplying this marketing area and the sale of fluid milk and milk products by handlers to consumers.

Milk produced on farms in the States of Kentucky, Ohio, Virginia, and West Virginia is inextricably commingled at a milk distributing plant located at Welch, West Virginia. Milk produced in Virginia and West Virginia is received and commingled at plants located at Bluefield, Virginia and Bluefield, West Virginia. Such milk is bottled and distributed in fluid form throughout the marketing area. Milk from farms in Kentucky and Ohio is sent to a bottling plant in the West Virginia segment of the proposed marketing area and the bottled products then are returned to Kentucky and Ohio for distribution to consumers. Similarly, milk produced on farms in Virginia is sent to a bottling plant at Bluefield, West Virginia, and the bottled products are returned for distribution in Virginia. Milk produced within the State of West Virginia and sold in fluid form within that portion of the marketing area in West Virginia is in direct competition with milk produced in other States. The same situation exists with respect to milk produced within the State of Virginia and sold in fluid form within that portion of the marketing area in Virginia.

Fluid milk bottled in Bluefield, Virginia, is distributed to consumers in Pike County, Kentucky, and in McDowell and Mercer counties in West Virginia. Fluid milk and fluid milk products move from plants in Welch and Bluefield, West Virginia, to wholesale and retail outlets in Boyd, Floyd, and Pike counties, Kentucky; Bland, Buchanan, Giles, and Tazewell counties, Virginia; and Cabell County, Ohio. One handler, who would be regulated under the proposed order receives manufactured milk products from a company-affiliated plant located in the Tri-State market (a federally-regulated area) for distribution in the Bluefield area. On a supplemental supply basis substantial quantities of milk produced in the states of Maryland, Ohio, and Wisconsin are frequently imported by handlers in the Bluefield marketing area to meet a portion of the bottled milk requirements during the low production season of the year.

The seasonal reserve of locally-produced Grade A milk is used in the manufacture of cottage cheese, ice cream, nonfat dry milk solids, and condensed milk. These products, made from producer milk, are manufactured in Virginia and West Virginia plants and are sold in several States within this section of the country.

Need for regulation. The marketing and pricing conditions in the Bluefield marketing area require the issuance of a milk marketing agreement and order to establish and maintain orderly marketing conditions. Such an order will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. For reasons stated in this decision the regulation should be separate from those covering the Appalachian and Tri-State marketing areas.

At least six pricing plans for milk delivered by farmers are operative in the Bluefield market. In addition, the variations in milk classification methods used by handlers affect the relative prices paid to the producers. The pricing and classification plans used have caused wide disparity in returns to producers.

Certain milk distributed in this area is classified for pricing purposes pursuant to the provisions of the Federal milk orders for the Appalachian, Clarksburg, and Tri-State marketing areas. An order issued by the Virginia State Milk Commission applies to milk distributed from a Bluefield, West Virginia, plant into Giles County, Virginia. These regulatory pricing plans which affect milk marketing in this area have varying methods of milk classification for pricing purposes.

Pricing plans devised by handlers (as hereinafter defined) utilize still different methods of classification. One handler, who distributes fluid milk products in this area from a plant located in West Virginia, has established three different classes for pricing purposes, as follows:

(1) Class I—fluid milk products distributed locally (Bluefield, West Virginia and vicinity);

(2) Class I (Kentucky)—fluid milk products distributed in Pike County, Kentucky, and milk separated for buttermilk, chocolate milk drinks, cottage cheese, and for the standardization of fluid milk; and

(3) A class for surplus milk.

This method of pricing has resulted in fluid milk products in Class I distributed by such handler in the proposed marketing area being priced as much as $1.22 above the price for fluid milk products distributed from the same plant to outlets in Kentucky. The Class I (Kentucky) price of this handler is based on, and equivalent to, the Huntington district Class I price under the Tri-State order. Also, this handler purchases milk produced in Virginia and distributes milk in Virginia under the producer and resale price regulations of the Virginia State Milk Commission for the Giles County, Virginia, market. Milk produced under regulation of the Virginia State Milk Commission customarily is priced higher than that sold locally in the Bluefield market.

Another handler, with a plant located in Virginia, has established three classes for pricing purposes, as follows: (1) Class I—fluid milk products distributed in Virginia; (2) Class IA—fluid milk products distributed outside the State of Virginia, buttermilk, and ice cream; and (3) a class for surplus milk. Under this method of pricing fluid milk products in Class I have been priced as high as $6.05 per hundredweight (4.0 percent butterfat basis) when at the same time fluid milk products in Class IA were priced at $4.11 per hundredweight. The Class IA price customarily has been fixed at the level of the Tri-State order Class I price for the Huntington district (adjusted to a 4.0 percent butterfat basis by using the "producer" rather than the "handler" butterfat differential under such order), less 25 cents.

A third handler, with a plant located in West Virginia, prices all his milk as Class I, except for small amounts of seasonal surplus.

The fourth handler in the market is regulated under the provisions of the Tri-State order and thus is required to follow a classification and price plan which differs from the others as described above.

The four local handlers, to which reference has been made, were formerly regulated under a producer price order of the Virginia State Milk Commission which was applicable to the "Southwest Virginia" milk market. They have not been regulated by the Virginia control agency since late 1953, but have continued some aspects of the regulatory pricing program on a voluntary basis. However, the variations in pricing plans for fluid milk distributed in the Bluefield area have resulted in producer returns which vary in excess of $1.00 per hundredweight for milk produced by farmers with farms located in the same production area. In some instances differences in returns per hundredweight occurred among producers delivering to the same handler in the same month.

The "stated Class I prices of such handlers have varied from $4.08 to $6.05 per hundredweight (4.0 percent butterfat basis) for bottled milk products distributed competitively in the same areas during the same periods of time. In addition, different methods of paying for butterfat above and below 4.0 percent are used and there is no uniformity in the computation of producer butterfat differentials. Because of these factors, together with the classification plans used, the stated Class I prices of unregulated handlers do not reflect with accuracy the level of returns actually received by producers for milk used in bottled milk products. This lack of uniformity in pricing and classification techniques has caused inequities among producers.

It is noted further that at least three types of seasonal incentive programs have been incorporated in the prevailing price plans used by those handlers in the market who are not under some regulatory program, notably the following: (1) Variations of "the base and excess" plan, (2) a modified "Louisville" plan, and (3) combination of a modified "Louisville" plan and "base and excess"

plan. Such payment plans also have resulted in inequities among producers.

Handlers using the base and excess plan as a means of obtaining a better seasonal pattern of production frequently changed the period designated as the "base-forming months" without prior notification to the producers. One of these plans provides for some producer milk to be priced as "excess" even in the short production season when the market as a whole is customarily short of milk supplies.

The modified "Louisville" plan was instituted by one handler in 1954, when $0.75 per hundredweight was deducted from the producers' price in the months of April, May, and June, and the same amount per hundredweight added to the price in the months of October, November, and December. Order proponents contend that this resulted in an arbitrary net reduction in returns to such handler's producers since the fall rate of milk production normally is less than in April, May, and June. Producers claim it was their understanding that they would receive in the fall months the full amount of money represented by the deductions made in April, May, and June.

In 1955, the plan was changed without prior notification to the producers and deductions from the producers' price of $0.50 per hundredweight in April and May, and $0.55 in June were made. The amounts subsequently added to the producer's price were $0.50 per hundredweight in October, $0.75 in November, and $0.50 in December. In addition, a "base and excess" plan was instituted in the latter year without any prior notification to producers as to the base-forming period to be used. The changes made in 1955 also resulted in arbitrary reductions in returns to the producers delivering to such handler.

Another disruptive aspect of the latter pricing practice was allocation of varying amounts of surplus among individual producers. Some producers were allocated as much as 40 percent surplus while in the case of other producers no milk was so allocated. This disproportionate distribution of surplus caused a high degree of disparity in prices among producers since the difference between such handler's Class I and surplus prices has been as high as $2.50 per hundredweight.

Many producers in the Bluefield marketing area have no effective means of insuring the accuracy of the weights and tests of their deliveries of milk to handlers. The testing programs of the cooperative and handlers seldom agree on tests made of producers' milk. Producers testified that the cooperative's tests are consistently higher, but that they usually have been unable to obtain adjustments based on the differences shown. In addition, those handlers in the market not under any regulatory program do not permit auditing of their records for the purpose of establishing (1) the accuracy of the utilization of producer receipts according to the classification plan in use, and (2) the appropriate volumes of milk to be paid for as base milk and excess milk. One handler has not paid the cooperative the dues deducted from members and has been delinquent in making payments to cooperative members for their milk.

In summary, the proponent cooperative association has been unable to bargain with handlers concerning prices to be paid for milk received from farmers. Prices paid to producers throughout the Bluefield marketing area are generally at the option of the handler. There is no uniform classification plan whereby farmers supplying the Bluefield marketing area are assured of payment for their milk in accordance with its use. Handlers arbitrarily determine producer butterfat differentials for milk above or below 4 percent in butterfat. There is little uniformity in the seasonal incentive programs now used by handlers. As the result of the producers' inability to obtain satisfactory pricing plans for milk in the Bluefield area plants some producers have shifted their deliveries of milk from this market to plants in Winston-Salem, North Carolina; Charleston, West Virginia; and the Appalachian marketing area. Since the Bluefield market is in a deficit milk production area and supplies customarily have been fairly short in relation to the Class I demand any transfer of milk from the market seriously jeopardizes the delivery of the necessary requirements of fluid milk to this market.

The Federal milk marketing order proposed herein for Bluefield will implement the declared Congressional policy of establishing and maintaining orderly marketing conditions by providing:

(a) A regular and dependable method for determining prices to producers at levels contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handler's records of receipts and utilization to further insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns for sale of reserve milk;

(f) Uniform rules for the operation of seasonal incentive which will encourage producers to adjust production seasonally in closer alignment with the relatively even monthly needs for inspected milk; and

(g) Market-wide information on receipts, sales, and other data relating to milk marketing in the area.

Marketing area. The Bluefield marketing area should include all the territory within the counties of McDowell and Mercer in West Virginia, and Tazewell in Virginia.

Producers proposed that the counties of Buchanan and Tazewell in Virginia; McDowell and Mercer in West Virginia; and Floyd and Pike in Kentucky be either (1) established as a separate district within the present Appalachian marketing area, or (2) established as a marketing area to be known as the "Bluefield marketing area" for regulation under a separate marketing order.

One handler proposal would enlarge the marketing area to include in addition to the above-named counties, as proposed by producers, the counties of Boone, Fayette, Greenbrier, Kanawha, Logan, Monroe, Raleigh, Summers, and Wyoming, in West Virginia. This handler, upon further consideration, abandoned the request for the addition of Boone, Fayette, Greenbrier, Kanawha, Monroe, Raleigh, and Summers counties. The same proponent further modified his proposal to include Lincoln, McDowell, Mercer, and Mingo counties in West Virginia.

Another proposal submitted by handlers would adopt all of the counties included in the above handler's final proposal and in addition would include Tazewell County, Virginia, and Floyd and Pike counties, Kentucky. It was further proposed that this proposed marketing area be given consideration as an addition to the Huntington district of the Tri-State marketing area, as an alternative to the two producer proposals.

The problems complained of by the producer proponents of the order center primarily around the handling of milk in plants which either are located in or serve McDowell and Mercer counties, West Virginia. Plants located in McDowell and Mercer counties also handle a large portion of the fluid milk distributed within Tazewell County, Virginia. These three counties constitute perhaps the most populous area in the entire region under consideration and to a large extent are separated from other counties proposed for regulation by mountains and intervening areas which are only sparsely populated. The principal communities located in these counties are Bluefield, Princeton, and Welch, West Virginia, and the city of Bluefield, Virginia. Because of the numerous smaller communities scattered throughout the counties, it appears that orderly marketing can be best achieved by regulating the counties in their entirety rather than to specify particular communities for regulation.

Milk sold for consumption as Grade A milk within all three counties of McDowell, Mercer, and Tazewell must be approved by local health authorities under ordinances, practices, and procedures patterned after the model milk ordinance of the United States Public Health Service. Reciprocal agreements on farm inspections and on finished Grade A milk products for distributors prevail among the area health authorities. Current ratings of the United States Public Health Service are recognized by health authorities as a basis for acceptance of supplemental, or emergency, supplies of milk from distant plant sources. The degree of similarity of minimum health standards throughout the area justifies the uniform application of prices to all inspected milk marketed in these counties.

As previously stated, producers proposed that Buchanan County, Virginia, and Floyd and Pike counties, Kentucky, also be included in the marketing area. There is little, if any, milk distributed in Buchanan County which would not

be under the regulation of either the Appalachian or Bluefield order, without the inclusion of such county in the marketing area. Sales in this country are quite limited because of its rural character. For these reasons it is not necessary to include Buchanan County within either of the defined marketing areas. The reasons for not including Floyd and Pike counties in Kentucky are discussed below in conjunction with the consideration of other additional territory as proposed by handlers.

The relatively populous counties of Logan, Mingo, and Wyoming and the sparsely populated county of Lincoln, in West Virginia, are in a region where little milk is produced locally for distribution in fluid form. This is a coal mining region and extremely deficit as to its own milk supply. Milk is transported rather long distances from the markets of Huntington, West Virginia; Athens, Ohio; Beckley, West Virginia; Bluefield, West Virginia; and Charleston, West Virginia, to serve local needs for fluid milk. The milk imported into this area from Huntington and Athens is under regulation of the Federal milk order covering those communities (Tri-State Order No. 72), and the milk from Beckley has been under the regulation of a recently issued milk order for the Clarksburg marketing area (Clarksburg Order No. 109). Charleston handlers have limited sales in this area which are of minor competitive importance. The issuance of a Bluefield order for the marketing area as adopted above would bring under regulation nearly all the remaining milk distributed in these counties.

A situation similar to that noted for such four counties in West Virginia, applies also in the case of Floyd and Pike counties, Kentucky. The milk imported into this area from Huntington and Athens is under regulation of the Federal milk order covering these communities. Similarly, milk imported into this area from Big Stone Gap, Virginia, and Kingsport, Tennessee, is under regulation of the Federal milk order covering the Appalachian market. The issuance of a Bluefield order for the marketing area as adopted above would bring under regulation nearly all the remaining milk distributed in these counties.

It should be noted that the inclusion of any of the areas discussed above in addition to the counties of McDowell and Mercer, West Virginia, and Tazewell, Virginia, would have the effect of transferring plants at Huntington, West Virginia, and Athens, Ohio, now regulated under the Tri-State order, to regulation under the Bluefield order unless some modification of the present terms of the Tri-State order were made to prevent such a transfer. Regulation of such plants under the Bluefield order would not be in the interest of orderly marketing within the Tri-State marketing area. As above stated, the inclusion of the additional counties probably also would involve a portion of the Charleston market under regulation, while a greater portion of the milk for this substantial market would remain unregulated. The application of a Bluefield order in this manner would create difficult competitive problems for the regulated milk originating at Charleston plants and is not necessary to achieve orderly marketing for producers who have primary interest in the proposed Bluefield regulation. Handlers testified that if their Class I prices were reasonably aligned with those effective under the Tri-State order no competitive disadvantage resulting from the purchase of milk from producers would result from the omission of such counties from the defined marketing area since the bulk of the milk distributed in these counties, other than that distributed by handlers who would be regulated under the Bluefield order, is at present priced under the Tri-State order. The inclusion of these counties in the defined marketing area is not required to achieve orderly marketing conditions for the producers primarily concerned with the Bluefield market plants.

The milk distributors who would be regulated under a separate Bluefield order are in competition throughout the particular counties to be regulated. In addition, some milk is distributed within this area from plants located outside the defined area at Beckley, West Virginia, and Athens, Ohio. The operator of the Beckley plant might also become a handler under the regulation. Although some milk is distributed in Tazewell County by persons regulated as handlers under the order currently in effect in the Appalachian marketing area, no milk is distributed within the confines of the latter marketing area by persons who would become handlers under a separate order for the Bluefield marketing area. It is noted also that the points outside the defined area where there is some competition between handlers to be regulated by a Bluefield order and those currently regulated under the Appalachian order are not numerous. There is substantially greater competition in outside markets between Bluefield handlers and distributors in the Tri-State market and Beckley. From the standpoint of route competition there is insufficient relationship between the Appalachian and Bluefield markets to indicate the propriety of a single regulation for handlers in both markets. Further support for this view is found in the tendency for Bluefield handlers to seek new markets generally to the west and north of Bluefield, West Virginia, rather than to compete more vigorously in Bristol and other markets to the south regulated under the Appalachian order.

Milk subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to the pricing provisions of the order. For this reason, definitions of "handler", "plant" (various types), "producer", "producer milk" and "other source milk" should be provided.

A "handler" is defined to be the operator of an "approved plant". The handler is the person to whom the provisions of the order are applicable. The handler receives the milk of producers and thus must be held responsible for reporting its receipt and utilization. He is the one responsible for paying producers not less than the specified minimum prices. In case a person operates more than one plant at which milk is to be priced, he should be a handler with respect to the combined operations of such plants. If a handler also operates an unregulated plant(s), this definition is not intended to include such person in his capacity as an operator of such type of plant(s). Producer-handlers and other operators of approved plants which do not qualify as "fluid milk plants" (as discussed below) should be considered handlers in order that such persons shall report to the market administrator as may be necessary to determine their status at any given time.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk for sale on retail and wholesale routes in the marketing area. Such plants are defined as "fluid milk plants." More specifically, a fluid milk plant under the attached order is any plant from which a volume of Class I milk equal to either an average of more than 1,000 pounds per day, or more than 2.0 percent of the approved milk of such plant, is disposed of during the month on routes (including routes operated by vendors) or through plant stores or retail or wholesale outlets (except other fluid milk plants) located in the marketing area.

The order should provide also delivery performance standards for plants from which no wholesale or retail routes are operated, but which represent sources of supply for the market. There are two broad categories of plants that generally provide supplemental supplies of milk for fluid milk markets. One category includes those plants which constitute regular sources of supply and are closely associated with the market by receiving milk subject to the farm inspection of local health authorities. Although there are no such plants serving the Bluefield marketing area at present some provision should be made for the regulation of plants of this type that might become closely associated with the market in the future. Plants of this type are a normal part of the milk procurement facilities in several adjacent markets, and nothing in this order will preclude any plant wherever located from serving the market in the future should a need for its supplies arise. It is concluded that any plant in this category should be included within the definition of a fluid milk plant throughout the year whenever it may become a regular source of supply for any plant from which wholesale or retail routes are operated.

The second category of supply plants are those receiving milk not under the routine farm inspection of health authorities in the market. The Bluefield market receives supplemental milk supplies from a number of plants of this type. These plants normally provide supplemental milk to plants in various other fluid milk markets as well, and their shipments to the Bluefield area for Class I use are primarily seasonal in nature.

Producers proposed that the latter type of plant be included in the definition

of a fluid milk plant when any such plant supplies to the market a monthly total of 70,000 pounds (or more) of milk for each of the months of August through January, inclusive. Producers contended that such plants are a threat to the stability of the market because they are able to deliver large quantities of milk during the low production months from other sources and locations where no minimum price regulations are in effect. It is quite possible that as a result of handlers receiving milk from outside the order in unlimited quantities a situation could arise in which a significant portion of the market supply of milk would not be subject in any way to the pricing and payment provisions of the order. This could result in (1) a portion of the market supply being procured on a "flat price" basis without regard to use of milk as distinguished from the classified price plan provided in the proposed order, (2) limiting the effectiveness of the pricing and payment provisions of the order as a means of encouraging farmers to produce a year-round supply of pure and wholesome milk for the Bluefield market, and (3) incentive to handlers to use milk from sources outside regulation in preference to seeking an adequate supply of producer milk in all months. These factors would create a constant threat to the entire classified price plan.

It is concluded that such plants should be regulated when they furnish milk, skim milk or cream in fluid form in excess of 70,000 pounds (approximately two full tank loads) per month for the months of August through January, inclusive. In addition, these plants should be brought under regulation and made fully subject to the pricing provisions of the order when any shipments are made to fluid milk plants for the months of February through July, inclusive. This provision is similar to the comparable provision of the Appalachian order and is reasonable in view of the similarity of handler operations in the two markets. Milk subject to other orders issued pursuant to the act should not be made subject to the pricing provisions of the order at any time in order that double regulation may be avoided.

Minor quantities of milk are distributed on wholesale and retail routes from plants located outside the marketing area. Such plants generally are receiving supplies produced at considerable distances from the Bluefield milk production area and are primarily in competition with milk of unregulated handlers in markets outside the Bluefield marketing area. Regulation of such plants might place them in an uneconomic and unfavorable competitive position with respect to sales in their home markets. As long as the limit as to sales such a plant may make in the marketing area are kept relatively low, the volume of unpriced milk in the market would not present a disruptive force. It is concluded that this limit should be placed at 2.0 percent of the Grade A milk received at such plant from all sources, or an average of 1,000 pounds of Class I milk a day, whichever is less. Any plant from which a volume of Class I milk equal to more than 1,000 pounds per day, or 2.0 percent of its receipts of Grade A milk, skim milk or cream, is disposed of in the marketing area should be designated as a fluid milk plant and be made fully subject to regulation. This limited exemption is similar to that currently contained in the Appalachian order.

Any plant from which Class I milk is distributed in the marketing area, but which does not meet the standards for a fluid milk plant, should be defined as an "approved plant" and be required to file reports and submit to audits by the market administrator in order that he may verify the status of such plant.

"Producer" should be defined as any person, other than a "producer-handler", who produces milk under a dairy farm inspection permit issued by a duly constituted health authority which is customarily received at a fluid milk plant. Provision should be made, however, so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a nonfluid milk plant at any time during April, May, June and July, and on not more than 15 days during other months, and still be permitted to retain status as producer milk under the order. This will permit milk regularly associated with the market to be diverted to manufacturers during periods of flush production and over week-ends and holidays when supply and demand relationships may require some reserve and surplus milk to be manufactured in plants not regulated by the order. Producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed. Diverted milk shall be deemed to have been received at the plant from which it was diverted.

"Producer-handler" should be defined as a person who operates a fluid milk plant but handles no milk from dairy farmers other than milk of his own production. A producer-handler should be subject to the order only to the extent that he must submit reports to the market administrator as required and maintain and make available to the market administrator, accounts, records, and facilities, so that the market administrator may verify that such person meets the definition of producer-handler. It appears unnecessary to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. However, the classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Supplemental supplies of milk which may be obtained from other handlers, by virtue of the type of operation involved, may be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. Any milk which a handler receives from a producer-handler would be "other source milk" and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk. This method of allocating producer-handler milk will insure producers' priority on Class I sales made by the handler to whom milk is supplied. The producer-handler who, by being exempt, enjoys the full advantage of his fluid milk sales, should not also share in the Class I market of other producers.

"Other source milk" should be defined as all skim milk and butterfat contained in products utilized by the handler in his operations, except milk from producers, inventories, and other Class I products received from other fluid milk plants. This includes any non-fluid milk product from any source, including those produced at the handler's plant during the same or an earlier month which are reprocessed or converted to other products during the month in the plant. Defining other source milk in this manner will insure uniformity among all handlers under the allocation and pricing provisions of the order.

Classification of milk. Milk received by regulated handlers should be classified on the basis of the form in which, or the purpose for which, it is used, as either "Class I milk" or "Class II milk."

A classification plan of this type will insure that minimum prices for milk will be uniform among handlers according to use, that a price may be fixed for the milk disposed of as Class I at a level that will bring forth an adequate supply of pure and wholesome milk, and that a necessary reserve of quality milk may be maintained at all times (and used at prices in line with its value when processed into manufactured dairy products) without disrupting marketing and pricing conditions within the established marketing area.

The products which should be included in Class I milk are those distributed to the consumer in fluid form and required by health authorities in the proposed marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded, or manufacturing, milk price. This higher price should be at such a level that it will yield a uniform (blended) price to producers that will encourage the production of sufficient milk to meet market needs.

Reserve milk not needed seasonally or at other times for Class I use must be disposed of for use in manufactured products. These products are less perishable, are not required to be made from inspected milk, and must be sold in competition with products made from unapproved milk produced throughout the United States. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain

or flavored), cream (except frozen cream), and any mixture in fluid form of skim milk and cream (except ice cream mix, eggnog, and sterilized products contained in hermetically sealed containers); and (2) not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, should be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans should not be considered as concentrated milk.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products, received and disposed of by a handler, can be determined through certain testing procedures. Some of these products, such as ice cream and cottage cheese, present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. The handler who first receives the milk from producers should be responsible to the market administrator to establish the classification of, and to make payments to producers for, such milk. Except for such limited quantities of shrinkage which may under certain conditions (as set forth elsewhere in this decision) be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened); non-fat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk.

Cream which is frozen and placed in storage should be classified as Class II milk. Such cream is intended primarily for use in ice cream mixes. Any frozen cream or other Class II products which are used later in a fluid milk plant would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

A handler proposed that Class II milk include all skim milk and butterfat disposed of as livestock feed, and skim milk that is dumped after prior notification to and opportunity for verification by the market administrator. This handler testified that (1) little recovery value is obtained from fluid milk products returned to the handler's plant and sold as livestock feed, and (2) surplus milk is separated and the skim milk dumped for lack of manufacturing facilities to use all surplus milk.

Milk returned to plants from handler routes in this market frequently cannot be processed for resale as other dairy products. Because of the limited facilities in most handler plants for processing manufactured milk products seasonal surplus in small quantities from time to time does not warrant costs associated with disposition to unregulated plants for manufacture. It is concluded that skim milk contained in any product disposed of as animal feed, and skim milk which is dumped during the months of April, May, June and July, should be Class II milk. Because dumping can be verified only at the time the action is taken the handler should be required to give advance notice to the market administrator so that adequate proof of dumping will be possible.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by providing that ending inventories of all products designated as Class I milk, regardless of whether such products are held in bulk or in packages, be classified in Class II milk. Inventories of such products on hand will then be subtracted from Class II use the following month. If any products which are classified as Class II milk because they are held in inventories or later used in Class I, the higher valued use should be reflected to producers unless producer milk was not available for such use.

Inventories of products designated as Class I milk on hand at a fluid milk plant at the beginning of any month during which such plant becomes a fluid milk plant for the first time should likewise be subtracted from the Class II utilization of such plant. This will preserve the priority of assignment of current producer receipts to current Class I use for each month.

As in the case of the Appalachian market the question of multiple reporting periods for allocation purposes was considered. The testimony offered primarily with respect to the proposed revision of the Appalachian order is equally applicable to the Bluefield market. The findings and conclusions on this matter, previously set forth in this decision, likewise are applicable in connection with the Bluefield market and therefore are not repeated in this portion of the decision.

The proposals on the amounts of shrinkage to be allowed in Class II milk under a Bluefield order were similar to those previously considered in this decision in connection with proposed amendments to the Appalachian order. For the same reasons presented earlier producers opposed the proposals made by handlers.

As in the Appalachian market fluid milk operations take the bulk of the milk delivered by dairy farmers. A high degree of similarity in plant operations exists between the two markets. The classification, allocation and transfer provisions of the two orders are substantially the same. The class prices adopted for the Bluefield market contemplate similar treatment in accounting for and classifying shrinkage. It is concluded from the above that shrinkage should be determined on the same basis as is provided in the Appalachian order. Shrinkage not in excess of 2 percent of the handler's receipts of producer and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. Shrinkage not in excess of 2 percent of total receipts of producer milk and other source milk used to produce a Class II product should be classified as Class II milk, and any shrinkage in excess of this quantity should be classified as Class I milk. None of the shrinkage should be assigned to milk received from other fluid milk plants because shrinkage on such milk is allowed to the transferor-handler.

Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of by the handler. However, since some Class I items may be disposed of to other plants for processing, specific classification procedures should be prescribed for milk transferred between plants.

Milk, skim milk, cream, or other products designated as Class I milk transferred by a handler to the plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers claim in their reports to the market administrator that such milk should be classified as Class II milk. However, in the latter event sufficient Class II utilization must be available at the transferee-plant after prior allocation of shrinkage and other source milk. Furthermore, the assignment to classes must be such as will result in the maximum amount of producer milk of both handlers being assigned to Class I milk. These actions will insure that the highest-valued uses should be assigned first to these producers regularly supplying the market.

Producers proposed that milk which is diverted from fluid milk plants to nonfluid milk plants within a range of 100 miles of the marketing area be considered as Class II milk. Reference was made to transfers of surplus milk from a Bluefield plant to a manufacturing milk plant approximately 70 miles away.

One handler proposed that surplus milk which is transported from a fluid

milk plant to a nonfluid milk plant within a range of 250 miles of the transferor-plant be considered Class II milk. Surplus milk from this handler's plant has been moved at times to a manufacturing milk plant approximately 190 miles distant.

It is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. This requires verification of the receipts and utilization of milk at nonfluid milk plants which receive producer milk diverted from fluid milk plants. When it is necessary to travel considerable distances to verify the use of milk in nonfluid milk plants, there is excessive administrative expense. At least four nonfluid milk plants within a distance of 200 miles of Bluefield, West Virginia, are available to serve as the major outlets for surplus milk. The costs involved in transporting milk, skim milk, and cream in bulk form are such that generally it would not be economically feasible to move milk in excess of such distance for Class II disposition.

Therefore, it is concluded that milk, skim milk, and cream disposed of to a nonfluid milk plant, including milk which is diverted (sent directly to the nonfluid milk plant from the producer's farm) should be classified as Class I milk, unless the following conditions are met: (1) The operator of a nonfluid milk plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk in such nonfluid milk plant, (2) the nonfluid milk plant is located less than 200 miles, by the shortest hard-surfaced highway distance, from Bluefield, West Virginia, (3) the nonfluid milk plant used, during the month, an equivalent amount of skim milk and butterfat in the product use indicated, and (4) in the case of cream the transfer is made without the Grade A certification of any health authority. For reasons previously stated all Class I milk and milk products transferred to a producer-handler should not be subject to the above reclassification.

One handler proposed that a provision be included under which milk custom-bottled by a handler on behalf of an out-of-area plant could be made exempt from the pooling and pricing provisions of the Bluefield order. Specifically, it was requested that, in an emergency, milk moved from Clarksburg, West Virginia, to a plant at Beckley, West Virginia for bottling purposes and then returned to Clarksburg for sale in the Clarksburg marketing area be deducted from Class I milk in allocation at the Beckley plant. Following the classification plan of the present Appalachian order, such a receipt of milk at Beckley (if the Beckley plant were regulated under the Appalachian order) would be handled as a receipt of "other source milk" and allocated in series beginning with the lowest-priced class. The exemption, under the proposal, would apply only to a quantity of milk equivalent to that returned to the Clarksburg market.

In support of the proposal proponent indicated the possibility that its plant located at Clarksburg may be subject to relocation because the land on which it is situated may be purchased by the State of West Virginia for use as a road or highway. The land has been surveyed by the state and appears to be involved in one of two highway routes under consideration. Thus, it may be necessary to process milk at another location pending the erection of a new plant by the company to serve the Clarksburg market.

A custom-bottling provision in the Bluefield order may be an appropriate method of relieving hardship in an emergency situation, as described by proponent, without inequity to other regulated handlers. On the other hand, it has been found necessary in the general application of milk orders to provide stringent rules concerning the receipt and allocation of milk at regulated plants in order to provide a clear basis on which to determine the extent of the handler's responsibility to producers. Any relaxation of an order to the point that some milk received by the regulated handler would not be controlled pricewise by the order and yet displace producer milk in the highest classification should be carefully constructed in light of a specific emergency in order that such a provision may not be utilized to avoid an order restriction in a situation for which it was not intended.

For the most part the testimony was conjectural. There is a real possibility that the potential situation described will not become a fact. In the event the Clarksburg plant is closed at some future time to give way to the new highway, there may be alternative methods under either the Clarksburg order or the Bluefield order of preventing undue hardship to proponent. For example, proponent has a bottling plant at Fairmont, West Virginia. It may be possible for farmers now shipping to the Clarksburg plant to become regular producers at the Beckley plant by securing a change in health permits. A new plant location at Clarksburg may be found. Certainly proponent will receive advance notice to vacate which will provide opportunity to review the problem presented. The necessity and nature of any relief may be more accurately appraised in light of specific facts concerning the extent and time period of the actual emergency. In view of the above, it is concluded that a custom-bottling provision is not appropriate in the present circumstances.

It was proposed further by such handler that milk transferred to any plant regulated by the Bluefield order from a plant under another Federal order be allocated on a basis comparable to the class of utilization of such milk under the marketing order which covers the transferor's plant. Proponent referred particularly to milk which might be received from plants under either the Tri-State or Clarksburg order.

It was contended that such a transfer provision would assist a handler to hold his market against the inroads of milk brought by distributors in other markets for sale on routes since it would be easier for the local handler to obtain supplementary supplies when short of producer milk. Under the proposal any such milk, classified as Class I under an order such as the Clarksburg order, would be deductible from Class I milk in the Bluefield plant.

It is recognized that through the allocation procedure of assigning producer milk under each order to the highest-priced available uses, a quantity of milk may be classified as Class I milk in the exporting market and allocated, as "other source milk", to Class II milk in the receiving market. However, the deduction of the transferred quantity from Class I milk in the transferee-plant while local producer milk remains in Class II would not be justified under the conditions which prevail in the Bluefield area.

The Bluefield market is located in a deficit production area. Likewise, the Appalachian, Tri-State and Clarksburg markets are located in deficit milksheds. Unlike the Chicago market, referred to by proponent, which is relied upon to furnish supplemental supplies to adjacent markets as needed, none of the above-mentioned markets serves as a "balance wheel" to the supply condition of another of such markets. Each market is independent of the others in supply procurement and sources of outside milk vary. Since local producers of the Bluefield market represent the only fully dependable and reasonably near source of milk for most Bluefield handlers, there appears to be no substantial reason to force producer milk into manufacturing uses while temporary, and perhaps, sporadic, supplies from outside sources are assigned to higher-valued uses. Such procedure would not assist the orderly marketing of milk in the Bluefield area.

Bluefield plants, including proponent's plant, have no substantial capacity to manufacture milk products. Milk imported from other areas is intended primarily to supplement local producer milk in Class I uses. If the need for such supplemental milk is real no handler should experience undue hardship from order requirements under which producer milk is first assigned to the highest-priced class since the bulk of the supplemental milk would be deductible from Class I milk in allocation if actually used for fluid purposes.

In view of the above, inter-market transfers should be allocated in the same general manner as any other milk which is received from sources other than producers. However, since it may be necessary at times to allocate both regulated (priced under another Federal order) and unregulated milk from outside sources as "other source milk" in a Bluefield plant, it is reasonable to allocate the unregulated milk first to the lowest-valued uses prior to the allocation of priced milk in such uses. The latter procedure is adopted.

Class prices. Class I prices should be established at a level which, together with appropriate Class II prices, will return to producers a uniform price sufficient to bring forth the required supply of Grade A milk throughout the year. Class prices established too low will result in the production of insufficient quantities of milk to meet the requirement of the market. However, if prices are too high, it will stimulate production and bring to the market more milk than

is needed for Class I and reasonable "reserve" requirements. An overstimulation of production in excess of fluid milk requirements would result in the development of unnecessary and uneconomic surpluses.

Producers included in their proposals for the Bluefield area the same basic price formula now in use under Appalachian Order No. 23. The purpose of a basic price is to reflect the general economic factors underlying the price for milk. The price of milk used in manufactured milk products reflects, to a large extent, changes in general economic conditions affecting supply and demand, because the markets for most manufactured products are nationwide. For these reasons, many fluid milk markets have found it appropriate to use the prices for butter and nonfat dry milk solids, or the prices paid by condenseries (with differentials over these basic manufacturing prices), to establish fluid milk prices.

In the Bluefield market, prices for milk used for fluid purposes are related to prices paid for milk used for manufacturing purposes since the production and marketing of both types of milk are influenced by many of the same economic conditions. Farms producing milk for both fluid milk and manufacturing milk plants are intermingled to some extent in the Bluefield production area. In addition, manufacturing milk plants serve as alternative outlets for milk which is produced to meet fluid milk requirements. The recommended differential added to the basic formula price should, in general, reflect the additional costs required for Grade A milk to be produced and delivered to Bluefield market handlers in the quantities required to meet the needs for fluid milk and cream consumption in the marketing area. The use of alternative components as included in the attached order in the determination of the basic formula price will reflect the basic factors which establish the full farm value of milk for manufacturing uses at any given time.

In view of these facts, it is concluded that the basic price should be the higher of (a) the average of the prices paid by the 13 "Midwestern condenseries", (b) a price computed on the basis of the daily quotations for 92-score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area, or (c) the average of the prices paid for milk received from dairy farmers by nine selected manufacturing plants in or near the local milkshed. This basis for pricing, identical to that in the Appalachian market, will assist in maintaining proper price alignment between the markets.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing the production of milk through consequent changes in producers' blend prices, has wider geographical implications today than in the past. In earlier days producers were limited to supplying milk to local markets because of inadequate transportation facilities and the local nature of health regulations and milk distribution systems. Today the technological advances in milk production, including the widespread use of milk cooling equipment on farms; the rapid motor transportation from farms to a number of cities instead of one or two, especially through the advent of bulk farm tank milk pickup; the increased efficiency of milk processing equipment and plants; the increasing importance of paper containers for packaging milk; the use of refrigerated delivery trucks; the sale of milk through vendors and stores in distant cities; and the corollary trend among health authorities of approving sources of milk derived from a wider supply area under agreement for reciprocal inspection—all these factors enable milk to be transported and sold long distances from the point of production and processing.

These developments have been and are influencing the marketing organization and price structure for producer milk and for fluid milk products in the Bluefield marketing area. Recent highway improvements have made this area accessible from a number of markets. That these developments have affected the level of prices paid for milk in the Bluefield marketing area may be noted from the many references in the record to the need of reasonable alignment of Bluefield marketing area prices with prices in the Appalachian, Clarksburg, and Tri-State markets.

Proponents proposed Class I price differentials (over the basic formula price) for the Bluefield marketing area of $1.35 during the months of April, May, and June; $1.80 during the months of February, March, and July; and $2.25 during all other months which would be added to a basic formula price similar to that used under Appalachian Order No. 23. Producers gave the following reasons for establishing differentials in these amounts: (1) The production area for the Bluefield market overlaps the production areas of Charleston, West Virginia; Winston-Salem, North Carolina; Beckley, West Virginia; Smyth-Wythe, Virginia; Pulaski - Montgomery - Giles, Virginia; Roanoke, Virginia; Galax, Virginia; and the Appalachian market; (2) a proper relationship of prices among markets obtaining fluid milk supplies from the same general production area is of utmost importance; (3) current blend prices have not induced an adequate year-round supply of inspected milk for the market; (4) producers have shifted from the Bluefield market to some of the above-named markets which offer higher returns; (5) increased demand for coal in this area has increased economic activity and the demand for dairy products; and (6) the proposed seasonal variation in price is necessary to encourage a more even production pattern throughout the year.

One handler proposed that the price for Class I milk should be the simple average of the prices established for Class I milk under Appalachian Order No. 23 and under Tri-State Order No. 72 (for the Huntington district). This handler, upon further consideration of this proposal, and his modified marketing area proposal (previously discussed), abandoned this price formula suggestion. Another handler proposed that the Class I price should be equivalent to the Class I price as established by the Tri-State order for the Huntington district. Handlers generally stressed the importance of the proper alignment of Class I prices in the Bluefield and Tri-State marketing areas. They testified that they are in competition with handlers from the Tri-State marketing area in the Logan, Pikeville, Williamson, and Prestonburg markets as to a very large proportion of their fluid milk sales. One handler in the Bluefield market who is regulated by the Tri-State order as to part of his supply bottled at a Bluefield area plant has regularly paid at least 31 cents per hundredweight over the minimum Class I price as required for such plant under the Tri-State order.

Consideration should be given to the need for alignment of Class I prices among the marketing areas of Appalachian, Bluefield, Clarksburg, and Tri-State. In this connection official notice is taken of the price formulas of the Appalachian, Clarksburg, and Tri-State orders. The Appalachian, Bluefield, and Clarksburg markets, and the Huntington district of the Tri-State market are all in deficit milk production areas. Although the Appalachian and Bluefield milk production areas overlap in four counties in Virginia, there is very little if any overlapping of either milkshed with the Tri-State milk production area. The costs of feed, farm labor, hay and dairy ration are quite similar in the production areas of the Appalachian and Bluefield markets. Also, the costs of transporting milk from farms to milk plants are not significantly different in the two markets. The major portion of Bluefield handlers' sales, however, are in direct competition with handlers regulated by the Tri-State order. Handlers from these two areas are the major competitors in the Logan, Williamson, Prestonburg, and Pikeville markets.

Exceptions filed by producers referred to the level of Class I price differentials for months other than April, May and June. Producers stressed particularly a closer alignment of Class I prices with the prices established for the Appalachian marketing area in order not to encourage a shift of producer milk from the deficit Bluefield market. In addition, they pointed to the slightly higher level of Class I price differentials in the Clarksburg marketing area.

The Class I price should be established in the Bluefield order by adding a differential of $1.45 during the months of April, May and June; $1.70 during the months of March and July, and $2.10 during all other months, to the basic formula price. Producer supplies of milk in 1955 showed a marked decrease in both July and August when compared to the immediately preceeding flush production months of April, May and June. The production level in February was not greatly different from that in the short production months of September, October, and November preceding. The seasonal variation in Class I price differentials from months of low production to

months of high production and the reverse should be at the same rates of change. Prices should be closely aligned with the Appalachian marketing area in months when supplies are relatively short for both markets in order to prevent unnecessary shifting of producer supplies. However, a wider seasonal pattern of pricing than prevails in the Appalachian market is necessary in view of competition between Bluefield handlers and handlers from the Tri-State market in a common sales area. These markets are more significantly related to the Bluefield market than is Clarksburg as to the major factors affecting the production and marketing of milk.

The average Class I price per hundredweight of 4 percent milk in 1955, f. o. b. market, would have been $5.34 as fixed under the formula. The average Class I price per hundredweight for the same period was $5.40 under the Appalachian order and $5.00 for the Huntington district under the Tri-State order. The formula adopted would have resulted in Class I prices per hundredweight of $5.67 in January and $4.87 in June 1955. The Class I prices per hundredweight in the Appalachian order were $5.67 in January and $5.12 in June, and in the Huntington district under the Tri-State order were $5.53 in January and $4.38 in June. A receiving station which receives milk for shipment to the Appalachian market is located at Rural Retreat in the Virginia segment of the Appalachian milkshed. A location differential of 14.5 cents per hundredweight is deductible from the Class I and uniform prices at this location. At this point, where the Bluefield and Appalachian milksheds overlap, the net returns to producers, after taking into account relative hauling costs, will be, on an annual average basis, in close alinement with those received by Appalachian market producers.

Producers proposed that a "supply-demand adjustment factor" be included in the Class I price formula to further reflect changes in local supply and demand conditions. Although a supply-demand adjustment factor in the pricing formula conceived from local data would be desirable and serve a useful purpose, it is concluded that the development of such a factor from the limited data available at present locally, or from experience in the Appalachian market, would not reflect the Bluefield marketing conditions adequately and should be delayed until the Bluefield market has had experience under the order. Market experience under regulation is desirable as a basis for determining with accuracy the seasonal patterns of production and demand for use in connection with such a formula. The class prices included in this order will be terminated eighteen months after this order becomes effective, providing an opportunity for review of the market situation based on more detailed information.

The Class II price formula should reflect a reasonable value of milk for manufacturing purposes in the production area of the Bluefield market. The price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I requirements may be produced from time to time. However, this price should not be so low that handlers will be encouraged to procure or retain milk supplies solely for the purpose of converting substantial quantities into Class II products when a Class I market exists.

Handlers in the Bluefield market use most of their daily reserves of milk for cottage cheese and ice cream production. The manufacture of limited quantities of producer milk into storable products such as condensed milk and nonfat dry milk solids occurs principally in the flush season of production and at plants not operated by handlers. All products included in Class II may be made from ungraded milk.

Producers provided a tank truck to divert surplus milk from a Bluefield handler's plant to a manufacturing plant during the last surplus production season. A premium over the basic manufacturing milk price was received for such milk.

The level of Class II milk prices in the flush production season should not be below that paid for ungraded milk, since such "pay" prices represent the prevailing value in the milkshed for milk for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the months of flush production.

The production areas of the Appalachian and Bluefield markets overlap. Regulated handlers' outlets for surplus milk during the flush production season from the Appalachian and Bluefield markets are manufacturing plants which are the principal buyers of ungraded milk in the milksheds of the two marketing areas. Official notice is taken of the Class II price formula in Appalachian Order No. 23. The Class II price computed for the Appalachian area during the months of March through August is, and will continue to be, the average of the prices paid for milk received from dairy farmers by nine manufacturing plants in the area. These plants are located at Galax and Abingdon, Virginia; Greenville, Lewisburg, and Murfreesboro, Tennessee; Mayfield and Bowling Green, Kentucky; Statesville, North Carolina; and Chester, South Carolina. It is concluded from the above that the Class II price for the months of March through August at Bluefield plants should be the average of the prices paid for milk received from dairy farmers by the nine manufacturing plants at the above locations.

During the months of below-average production a higher level of prices for Class II milk should be provided in the order so as to encourage the transfer of milk from manufacturing uses to fluid uses during the fall and winter months. In these months there are available outlets for reserve milk in cottage cheese and ice cream which, among manufacturing uses, are preferred outlets. These are also the months when considerable quantities of milk are imported into the market. Supplemental supplies of milk during the short production season are received from areas where the price of milk used in the manufacture of butter and nonfat dry milk solids is an important factor in establishing the prevailing farm values of manufacturing milk. Therefore, it is concluded that the Class II price for the months of September through February, should be the higher of either the price computed pursuant to a butter-nonfat solids formula (4.8 times 92-score Chicago butter price per pound plus 8.2 times price per pound spray process nonfat dry milk for Chicago area, minus 75 cents per hundredweight) or the average of the prices paid by the nine manufacturing plants. This will provide alignment of Class II milk prices with the price of milk for similar uses in the Appalachian market.

As previously pointed out in this decision, it was concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value due to variations in the butterfat content in each product. The basing point from which such adjustments are to be made should be 4.0 percent butterfat. This is the basis now used in both the Bluefield and Appalachian marketing areas. The values resulting from multiplying the average price of 92-score butter at Chicago by 0.120 for Class I milk and such butter price by 0.110 for Class II milk will provide an appropriate basis for adjusting such prices in this market.

The use of butterfat differentials in this manner follow standard practices in most fluid milk markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I butterfat differential at the same time that the Class I price is announced.

The Class II price and the Class II butterfat differential will not be announced until after the end of the month. Although handlers will not know precisely the cost of such milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured outlets. Trends in butter prices may be observed from daily and weekly market reports issued by the Department.

The butterfat differential used in making payments to producers should be calculated at the average of the returns actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class differentials provided in the order. The producer butterfat differential in no way affects the handlers' costs of milk but merely prorates returns among producers according to the varying butterfat tests of their milk.

Proponents originally proposed that no location differentials be adopted in pricing Class I milk for the Bluefield marketing area. It was pointed out that at present no milk is transported from receiving stations to processing plants. After further consideration, producers suggested that location adjustments should be computed on the basis of the distance between the receiving station and the Court House of either Mercer County at Princeton, West Virginia, or McDowell County at Welch, West Virginia, whichever point is nearest the receiving station. Producers gave the following reasons for establishing location adjustments in this manner: (1) The marketing area consists mainly of numerous small towns, (2) handlers' plants are not located in any one central community, and (3) the above two counties are the main centers of population in the proposed marketing area.

One handler proposed that the Class I price should be reduced for those plants which are outside the Bluefield marketing area by 10 cents per hundredweight of milk for the first 50 miles, and by 1.5 cents per hundredweight of milk for each additional 10 miles, or fraction thereof, that such plants are located from the City Hall of Bluefield, Virginia. This handler contended that a point representing the geographical center of the marketing area would be a desirable point from which to measure the cost to handlers in transporting milk to the market.

The farm value of milk for use in a market is affected, of course, by the cost of delivery to the place of utilization by the handler. Milk delivered directly to a plant located within the marketing area is worth more, by at least the cost of transportation, than is other milk to be utilized in the market but delivered to a plant located at a considerable distance from the market. Therefore, it is important to recognize the costs of transporting Class I milk from receiving stations that might become regular sources of supply for the Bluefield marketing area. In addition, it is important to establish the Class I price for milk delivered to processing plants at points in the marketing area and then provide a schedule of deductions from the Class I milk price as location differentials, or adjustments to such price.

In order to have equitable pricing of milk throughout this elongated marketing area it is necessary to provide points representative of the major communities in the marketing area from which location adjustments may be computed. This is an extended marketing area with numerous communities, or centers of population. The processing plants distributing fluid milk products in this area are not located in one central community. In addition, all plants serving the marketing area may not be located within its geographical limits. Accordingly, multiple points for fixing location adjustments should be used. These points should be the City Halls of Bluefield, and Welch, or the County Courthouse at Princeton, all in West Virginia, whichever is nearest to the plant. In view of the elongated character of the marketing area and the intermingling of routes of handlers with plants located in rather widely separated communities, equitable pricing may be best achieved by omitting location differentials with respect to any plant located less than 50 miles from the nearest of the respective points referred to above.

It is concluded that the Class I price should be reduced 10 cents for plants located between 50 and 60 miles distant, and by 1.5 per hundredweight of milk for each additional 10 miles, or fraction thereof. Such differentials as established by this decision are the same as those prescribed in the Appalachian milk marketing order and are related to the cost of hauling milk by an efficient means under conditions similar to those in this market.

Because of the low cost per hundredweight of milk involved in transporting manufactured milk products the value of milk used in manufactured dairy products is affected little, if any, by the location of the plant receiving that milk. Therefore, no adjustment should be made in the Class II price for reasons of location of the plant at which the producer milk is first received.

Type of pool. The individual-handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk.

Under this method of pooling the minimum prices will be uniform to all producers delivering their milk to the same handler. The "blend", "base", and "excess" prices, as the case may be, for each producer will depend on the proportions of Class I and Class II milk used by the handler receiving such producer's milk. Although each handler subject to the order will be required to pay uniform minimum prices to all the producers who deliver to him during each month the minimum uniform prices payable to producers by the various handlers will differ according to the variations among handlers in the proportion of milk used in each class.

Handlers in this market are primarily distributors of fluid milk and fluid milk products and receive little, if any, excess milk for the purpose of supplying other handlers with supplemental milk. These handlers process reserve milk and surplus milk in their own plants for sale as ice cream and cottage cheese. Seasonal surpluses of any substantial volume are transported to manufacturing plants outside the marketing area. Because there is relatively little surplus milk and because such milk is more or less proportionate among the major handlers blended returns to producers are not expected to vary widely. The proximity of the Appalachian production area (where an individual-handler pool plan is used) to the Bluefield production area should also be considered. Because of the fact that plants are rather widely separated and the marketing area is extensive geographically, each handler disposes of any excess supplies by his own means. There are no particular plants to be regulated which serve to balance supplies among plants. It is concluded that individual-handler pools in the Bluefield marketing area will result in optimum allocation of producer milk among handlers according to the Class I needs of the handlers and in maximum returns to producers from their milk.

Producer payment plan. A base and excess plan of distributing returns for milk among producers should be employed for this market.

Several handlers in the Bluefield market are now relying on various forms of base-excess plans to provide the incentive needed to induce producers to attain a more even production pattern throughout the year. Handlers have established the rules of these base-excess plans and have controlled the adjustment and transfer of bases. Although these plans performed a much-needed function, their actual operation in many cases leaves much to be desired from the standpoint of equity among producers.

Base and excess plans are effective means of improving the seasonal pattern of milk deliveries because they relate returns for milk directly to the individual producer's ability to deliver additional milk in the short production season and somewhat less milk during the season of flush production. In this market handlers' fluid milk sales customarily decline during the flush production season. In these months handlers have experienced difficulty in utilizing efficiently all seasonal excesses of milk. Distribution of producer returns under a base and excess plan will encourage a production pattern more even throughout the year.

It is concluded, therefore, that a base-excess plan similar to that in use in the Appalachian market, applied to all producers, by being made a part of the attached order, will play a useful role in stabilizing marketing and pricing conditions in the area.

The base and excess plan provided herein would provide for the calculation of the daily base of each producer by the market administrator by dividing the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during those months to the last day of February, inclusive, but by not less than 120 days. On or before April 1st of each year the market administrator would be required to notify each producer, and the handler receiving milk from him, of the daily base established by such producer. Now producers entering the market would not establish a base until they have met the above 120-day requirement in the same manner as other producers.

There are physical limitations, however, to making the reporting sections of the Bluefield order effective September 1, 1956. Therefore, the base of each producer for the appropriate months in 1957 shall be established on his deliveries of milk during the months of October, November, and December 1956, and January and February 1957, provided the producer has shipped milk to the Bluefield market for not less than 90 days in such five-month period.

During the months of August through March all producers would receive the same uniform, or average, price paid by the handler to which they deliver their

milk. For each of the months of April through July, separate uniform prices for "base milk" and "excess milk" would be computed. Class I sales would be allotted first to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days of delivery in the month. The "excess milk" price would be the minimum order Class II price, unless the total Class I sales of the handler exceed the total quantity of base milk received from producers during the month. In this case, the excess milk used for Class I sales would be reflected in the calculation of the excess milk price. Audit adjustments, inventory reclassification, and overages may further enhance the pooled value of "excess milk" from time to time and it is possible that without proper provision the excess milk price might be higher than the base price. As explained in an earlier part of this decision no useful purpose is served in improving the seasonal production pattern when the excess price exceeds the base price. As in the Appalachian order, the uniform prices for base and excess milk should be recomputed whenever the above condition would otherwise occur in order that the two prices may be equal.

Certain rules are necessary in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. Any transfer of base should be limited to situations where changes in the operation of a farm result because of (1) new ownership, (2) the death, retirement or entry into military service of a producer, or (3) changes in partnership or tenant-landlord arrangements. Since the base plan is effective in determining producer payments in only four months of each year and since all producers must establish a new base each year, other provisions than those contained herein for the transfer of bases are unnecessary.

Handlers should make payments to each producer for milk delivered by such producer at the appropriate uniform prices. If a producer has given a cooperative association written authorization, in the form of a contract, or in any other form, to collect payments for him and association makes a written request for such payments due such producer payment should be made by the handler to the cooperative. A provision authorizing handlers to make payment directly to such qualified cooperative for milk received from producer-members is necessary to enable the association to carry out its essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of member milk. Therefore, it is concluded that each handler with respect to milk received from a producer for which payment is not made to a cooperative association should pay such producer at not less than the applicable uniform price(s) on or before the 15th day after the end of each month. With respect to the producers whose milk was caused to be delivered by a cooperative association which is authorized to collect payment for such milk, the handler shall remit, if requested in writing by the cooperative association on or before the 13th day after the end of such month, an amount equal to the sum of the individual payments otherwise payable to such producers.

In making such payments for producer milk to a cooperative association the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amounts of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary in order that the cooperative association can make proper distribution of the money to the producer-members for whom it makes collections.

Proponents proposed that in addition to the regular monthly payments handlers should be required, upon request, to make advance payments to the producers' cooperative association for member milk. These advance payments would be made on the 23d day of each month for milk received from member producers who have requested an advance from the cooperative association. The payment would be made with respect to milk delivered during the first fifteen days of such month, at not less than the Class II price per hundredweight for the preceding month. Producers indicated that an advance payment for milk would assist in defraying costs more promptly.

Handlers suggested that if advance payments are included they should be made to each producer on or before the last day of each month for milk received from each producer during the first fifteen days of such month, at not less than the Class II price per hundredweight for the preceding month.

One handler makes payments to each producer twice a month on the 4th and 19th days of the month. Other handlers customarily have made advance payments to producers who requested them. The record lacks evidence of any widespread need for the proposed advance payments and, therefore, they are denied.

Administrative provisions. Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Such other terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator. Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

Records and reports. Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make the reports necessary to establish the classification of producer milk and payments due therefor. Time limits must be prescribed for filing such reports and for making the payments to producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order. It is provided that each handler shall report his Class I sales outside the marketing area as a separate figure. In view of the extent of such sales adequate data should be compiled for review in the event the scope of the marketing area should require revision.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intentions to import other source milk. Such information on a market-wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on (a) producer milk (including such handler's own production), (b) other source milk at a fluid milk plant which is classified as Class I milk, and (c) Class I milk disposed of on routes in the marketing area from a nonfluid milk plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order.

The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by some handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including the handler's own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their status under the order. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial maximum rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cent per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying tests and weights and furnishing market information. These services should be provided by the market administrator and the cost should be borne by the producers receiving the services. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary the market administrator may accept this in lieu of his own service.

There is a need for a marketing services program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. Detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization, and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. Comparison of the extent of the milkshed and the volume of milk involved with that of the Appalachian market, now under Federal regulation, leads to the conclusion that this will reflect the maximum cost of such services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and order and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Determination of representative period. The month of June 1956 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order regulating the handling of milk in the Appalachian marketing area in the manner set forth in the attached amending order is approved or favored by producers as defined in the order, and as proposed hereby to be amended, who during such representative period, were engaged in the production of milk for sale in the marketing area as defined in the order and as proposed hereby to be amended.

The same month (June 1956) is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order regulating the handling of milk in the Bluefield marketing area in the manner set forth in the attached order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Order of the Secretary Directing that a Referendum be Conducted Among the Producers Supplying Milk to the Appalachian Marketing Area and Designation of an Agent to Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order regulating the handling of milk in the Appalachian marketing area) who, during the month of June 1956, were engaged in the production of milk for sale in the marketing area specified in the aforementioned order to determine whether such producers favor the issuance of the order amending the order which is filed simultaneously herewith.

Charles S. McDonald is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

Order of the Secretary Directing That a Referendum Be Conducted Among the Producers Supplying Milk to the Bluefield Marketing Area, and Designation of An Agent to Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Bluefield marketing area) who, during the month of June 1956, were engaged in the production of milk for sale in the marketing area specified in the aforesaid proposed order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

Andrew T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

Marketing agreement and order. Annexed hereto and made a part hereof are documents entitled (1) Marketing Agreement Regulating the Handling of Milk in the Appalachian Marketing Area, (2) Order Amending the Order Regulating the Handling of Milk in the Appalachian Marketing Area, (3) Marketing Agreement Regulating the Handling of Milk in the Bluefield Marketing Area, and (4) Order Regulating the handling of Milk in the Bluefield Marketing Area. These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is therefore ordered, That all of this decision, except the attached marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement for each market, respectively, are identical with those contained in the attached order for such marketing area which will be published with this decision.

This decision issued at Washington, D. C., this 31st day of August 1956.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Appalachian Marketing Area

§ 923.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order, and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this section.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Appalachian marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Appalachian marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended as follows:

1. Delete § 923.6 and substitute therefor the following:

§ 923.6 *Appalachian marketing area.* "Appalachian marketing area", hereinafter called the "marketing area", means all the territory geographically located within the perimeters of the counties of Sullivan, Washington and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

2. Delete § 923.7 (b) and substitute therefor the following:

(b) Any plant which ships (1) any milk or skim milk during the months of February through July, or (2) an amount of milk, skim milk, or cream in fluid form in excess of 70,000 pounds for the month during the months of August through January, to a plant qualified pursuant to paragraph (a) of this section, and

3. At the end of § 923.7 substitute a colon for the period and add the following proviso: *"And provided further,* That this definition shall not be deemed to include any building, premises or facilities the primary function of which is to hold or store bottled milk or milk products in finished form in transit for wholesale or retail route distribution."

4. In § 923.17, delete the word "August" and substitute therefor the word "July."

5. In § 923.18, delete the word "August" and substitute therefor the word "July."

6. In § 923.31 (b) (1) delete the word "August" and substitute therefor the word "July."

7. Delete § 923.41 (b) and substitute therefor the following:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in (skim milk only) any product disposed of for livestock feed; (3) dumped (skim milk only) during the months of April, May, June or July: *Provided,* That the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (4) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (5) in shrinkage assigned to Class II pursuant to § 923.42.

8. In § 923.44 (c), delete the figure "50" and substitute therefor the figure "150". In the same paragraph delete the phrase "nearest point in the marketing area" and substitute therefor "city limits of Kingsport, Tennessee."

9. Delete § 923.46 (a) (3) and substitute therefor the following:

(3) Subtract from the remaining pounds of skim milk in Class II milk, the pounds of skim milk in other source milk (that derived from milk priced under another Federal order to be subtracted last): *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

10. Delete from § 923.50 (b) the phrase "during the delivery period" and substitute therefor the phrase "for the period from the 26th day of the immediately preceding month to the 25th day of the current month."

11. Delete § 923.51 (b) (2) (i) and substitute therefor the following:

(i) Multiply the Chicago butter price by 4.8.

12. Delete § 923.52 (b) and substitute therefor the following:

(b) *Class II price.* Multiply the Chicago butter price by 0.11, and round to the nearest one-tenth cent.

13. In § 923.71, delete the word "September" and substitute therefor the word "August."

14. In § 923.72, delete the word "August" and substitute therefor the word "July."

15. Delete the proviso in § 923.72 (e) and substitute therefor the following: *"Provided,* That if such resulting value is greater than an amount computed by mutiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volumes of base milk and excess milk."

16. Add to § 923.72 (g) after the word "section," the following phrase "and the proviso of paragraph (e) of this section."

17. In § 923.81, delete the word "August" and substitute therefor the word "July."

18. In § 923.90 (a), delete the words "September through March" and substitute therefor the words "August through March" and in the same paragraph delete the words "April through August" and substitute therefor the words "April through July."

Order[1] Regulating the Handling of Milk in the Bluefield Marketing Area

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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§ 1012.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a tentative marketing agreement and order regulating the handling of milk in the Bluefield marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act.

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Bluefield marketing area shall be in conformity to and compliance with the following terms and conditions:

DEFINITIONS

§ 1012.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 1012.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1012.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1012.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1012.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1012.6 *Bluefield marketing area.* "Bluefield marketing area," hereinafter called the "marketing area," means all the territory geographically located within the perimeters of the counties of Mercer and McDowell, in West Virginia, and Tazewell in Virginia.

§ 1012.7 *Fluid milk plant.* "Fluid milk plant" means (a) any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day, or not less than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area, (b) any plant which ships (1) any milk or skim milk during the months of February through July, or (2) an amount of milk, skim milk or cream in fluid form in excess of 70,000 pounds for the month during the months of August through January, to a plant qualified pursuant to paragraph (a) of this section, and (c) any plant which during the months of August through January receives milk from farmers holding dairy farm permits or ratings issued by a health authority having jurisdiction in the marketing area, and from which milk, skim milk or cream is moved during the month to a plant qualified pursuant to paragraph (a) of this section: *Provided,* That if a portion of a plant is operated separately and no approved milk is received in such portion of the plant, it shall not be considered as part of a fluid milk plant pursuant to this section: *And provided further,* That this definition shall not be deemed to include any building, premises or facilities the primary function of which is to hold or store bottled milk or milk products in finished form in transit for wholesale or retail route distribution.

§ 1012.8 *Approved plant.* "Approved plant" means a fluid milk plant or any plant from which Class I milk is delivered (including delivery by a vendor or sale from a plant store) during the month to retail or wholesale outlets (except fluid milk plants) located in the marketing area.

§ 1012.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant.

§ 1012.10 *Handler.* "Handler" means any person in his capacity as the operator of an approved plant.

§ 1012.11 *Producer.* "Producer" means any person except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a fluid milk plant, or (b) diverted by the operator of a fluid milk plant for his account to a nonfluid milk plant (1) any day during the months of April through July, and (2) on not more than 15 days during any of the months of August through March: *Provided,* That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

§ 1012.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the fluid milk plant directly from producers or (b) diverted from a fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 1012.11.

§ 1012.13 *Approved milk.* "Approved milk" means any skim milk or butterfat contained in producer milk, or in milk, skim milk or cream which is received from a fluid milk plant, except the plant of a producer-handler, and which is approved for distribution as Class I milk by the agency issuing the health permit to such plant.

§ 1012.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 1012.41 (a), except (1) such products approved by the ap-

propriate health authority for distribution as Class I milk in the marketing area which are received from fluid milk plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 1012.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 1012.15 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

§ 1012.16 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 1012.17 *Base milk.* "Base milk" means milk received at a fluid milk plant from a producer during any of the months of April through July which is not in excess of such producer's base for such month computed pursuant to § 1012.81.

§ 1012.18 *Excess milk.* "Excess milk" means either (a) milk received at a fluid milk plant from a producer during any of the months of April through July, which is in excess of base milk received from such producer during such month, or (b) milk received during such month from a producer for whom no base can be computed pursuant to § 1012.80.

MARKET ADMINISTRATOR

§ 1012.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1012.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1012.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1012.95 (1) of the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1012.94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1012.30 and 1012.31, or payments pursuant to §§ 1012.90 through 1012.95;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 6th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential.

REPORTS, RECORDS, AND FACILITIES

§ 1012.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 1012.41 (a) (1) received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of products designated as Class I milk pursuant to § 1012.41 (a) (1) on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 1012.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his fluid milk plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of April through July, the total pounds of base and excess milk, (iii) the days on which milk was received from such producer if less than a full month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of milk, fluid skim milk or cream at his fluid milk plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 1012.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and other milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1012.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-

year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1012.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat at fluid milk plants, which is required to be reported pursuant to § 1012.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1012.41 through 1012.46.

§ 1012.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1012.43 and 1012.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog); and (2) not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in (skim milk only) any product disposed of for livestock feed; (3) dumped (skim milk only) during the months of April, May, June or July: *Provided,* That the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (4) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (5) in shrinkage assigned to Class II pursuant to § 1012.42.

§ 1012.42 *Shrinkage.* The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in the fluid milk plant(s) of the handler;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 1012.11) and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 1012.41 (a) and (b) (1) (except shrinkage determined pursuant to paragraph (a) of this section) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

§ 1012.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1012.44 *Transfers.* Skim milk or butterfat disposed of from a fluid milk plant shall be classified:

(a) As Class I milk if transferred in the form of products designated as Class I milk in § 1012.41 (a) (1) to a fluid milk plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 1012.30: *Provided,* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 1012.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(b) As Class I milk if transferred to a producer-handler in the form of products designated as Class I milk in § 1012.41 (a) (1);

(c) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonfluid plant located in the marketing area or not more than 200 miles by the shortest highway distance, as determined by the market administrator, from the City Hall, Bluefield, West Virginia, unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or before the 6th day after the end of the month within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk if transferred in bulk form as cream to a nonfluid plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 1012.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

§ 1012.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors, the reports of receipts and utilization for the fluid milk plants of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1012.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 1012.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 1012.42 (d);

(2) Subtract from the remaining pounds of skim milk in Class II milk, the pounds of skim milk in other source milk (that derived from milk priced under another Federal order to be subtracted last): *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 1012.41 (a) (1) on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 1012.41 (a) (1), according to its classification as determined pursuant to § 1012.44 (a);

(5) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section;

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 1012.50 *Basic formula price.* The highest of the prices computed pursuant to paragraph (a) or (b) of this section and § 1012.51 (b), rounded to the nearest whole cent, shall be known as the basic formula price.

(a) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Bellesville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price per hundredweight computed as follows: Multiply the Chicago butter price by 4.0, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture for the period from the 26th day of the immediately preceding month through the 25th day of the current month, is above 5 cents.

§ 1012.51 *Class prices.* Subject to the provisions of §§ 1012.52 and 1012.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* For each month during the eighteen-month period following the effective date of this order the Class I milk price shall be the basic formula price for the preceding month, plus $1.45 during the months of April, May and June; $1.70 during the months of March and July; and plus $2.10 during all other months.

(b) *Class II milk price.* For the months of March through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph, and for all other months the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.
Carnation Co., Galax, Va.

(2) Add the amounts obtained pursuant to subdivisions (i) and (ii) of this subparagraph, and subtract 75 cents therefrom.

(i) Multiply the Chicago butter price by 4.8;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department of Agriculture.

§ 1012.52 *Butterfat differential to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 1012.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price by 0.12, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply the Chicago butter price by 0.11, and round to the nearest one-tenth cent.

§ 1012.53 *Location differentials to handlers.* For that milk which is received from producers at a fluid milk plant located 50 miles or more from the nearest of the following listed places, by shortest hard surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1012.41 (a) (1) and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified Class I milk, the price specified in § 1012.51 (a) shall be reduced at the rate of 10 cents per hundredweight for a distance of not less than 50 miles but less than 60 miles, plus 1.5 cents per hundredweight additional for each 10 miles, or fraction thereof, beyond 60 miles, according to the location of the fluid milk plant where such milk is received from producers:

County Courthouse, Princeton, W. Va.
City Hall, Bluefield, W. Va.
City Hall, Welch, W. Va.

Provided, That for the purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1012.46 (a) (1) and (2), and the comparable steps in § 1012.46 (b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1012.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1012.60 *Producer-handlers.* Sections 1012.40 through 1012.46, 1012.50 through 1012.53, 1012.70 through 1012.72, 1012.80 through 1012.83, and 1012.90 through 1012.96 shall not apply to a producer-handler.

§ 1012.61 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be considered as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 1012.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 1012.7 (a) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Bluefield marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 1012.7 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant has qualified as a fluid milk plant pursuant to § 1012.7 (c) for each month during the preceding August through January period.

DETERMINATION OF UNIFORM PRICE

§ 1012.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) during each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from

each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and (e) add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 1012.46 (a) (3) and (b), whichever is less.

§ 1012.71 *Computation of uniform prices for handlers.* For each of the months of August through March the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 1012.70 the total of the location differential deductions to be made pursuant to § 1012.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. market.

§ 1012.72 *Computation of the uniform prices for base milk and for excess milk for handlers.* For each of the months of April through July, the market administrator shall compute uniform prices for base milk and for excess milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 1012.70 the total of the location differential deductions made pursuant to § 1012.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Subject to the conditions set forth in paragraph (e) of this section, compute the value of excess milk received by such handler from producers by multiplying the quantity of such milk by the Class II price;

(e) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (d) of this section from the value obtained pursuant to paragraph (c) of this section: *Provided,* That if such resulting value is greater than an amount computed by multiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volumes of base milk and excess milk.

(f) Divide the value obtained pursuant to paragraph (e) of this section by the hundredweight of base milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for base milk of 4.0 percent butterfat content, f. o. b. market; and

(g) Divide the sum of the values obtained pursuant to paragraph (d) and the proviso of paragraph (e) of this section by the hundredweight of excess milk in producer milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for excess milk of 4.0 percent butterfat content.

BASE RATING

§ 1012.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days: *Provided,* That the daily base of each producer for April, May, June and July 1957 shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the five-month period October 1956 through February 1957 by the number of days from the first day milk is received from such producer during said period to the last day of the period, inclusive, but not less than 90 days.

§ 1012.81 *Computation of base.* The base of each producer to be applied during the months of April through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days such producer's milk was received by such handler during the month: *Provided,* That if the producer's milk was not received on a daily basis, the daily base shall be multiplied by the number of days during the month for which the milk production of such producer was received by such handler.

§ 1012.82 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months of September through February: *Provided,* That a base computed for April, May, June and July, 1957 shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months of October 1956 through February 1957.

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be removed from one handler to another handler regulated under this order.

§ 1012.83 *Announcement of established bases.* On or before April 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 1012.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 15th day after the end of each month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 1012.71 for the months of August through March, and at not less than the uniform price for base milk computed pursuant to § 1012.72 with respect to base milk received from such producer and at not less than the uniform price for excess milk computed pursuant to § 1012.72 with respect to excess milk received from such producer for the months of April through July, subject to the following adjustments: (1) The butterfat differential pursuant to § 1012.91, (2) the location differential pursuant to § 1012.92, (3) marketing service deductions pursuant to § 1012.94, (4) proper deductions authorized in writing by the producer, and (5) adjustments for errors in calculating payment to such individual producer for past months: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 13th day after the end of each month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of

this section, each handler shall furnish each producer from whom he had received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1012.91 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer pursuant to § 1012.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in the producer milk of such handler allocated to Class I and Class II milk pursuant to § 1012.46 (b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 1012.92 *Location differential to producers.* In making payment to producers pursuant to § 1012.90, the applicable uniform prices to be paid for producer milk received at a fluid milk plant located 50 miles or more from the nearest of the following listed places, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate: County Courthouse, Princeton, West Virginia; City Hall, Bluefield, West Virginia; or City Hall, Welch, West Virginia.

Distance in miles	*Rate per hundredweight (cents)*
50 but not less than 60	10
For each additional 10 miles (or fraction thereof) an additional	1.5

§ 1012.93 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, accounts, or verification of weights and butterfat tests of milk or milk products disclose errors, resulting in money due a producer or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 1012.94 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1012.90, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments, to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of this statement, a handler may authorize the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1012.90 (b).

§ 1012.95 *Expense of administration.* As his prorata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month for such month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a fluid milk plant which is classified as Class I milk and, (c) Class I disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (except fluid milk plants) located in the marketing area from a nonfluid milk plant.

§ 1012.96 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1012.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1012.101.

§ 1012.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provisions of this part whenever he finds this part or any provisions of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 1012.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final

accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1012.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1012.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this part.

§ 1012.111 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 56-7178; Filed, Sept. 6, 1956; 8:47 a. m.]

Agricultural Research Service

[9 CFR Parts 145, 146]

NATIONAL POULTRY AND TURKEY IMPROVEMENT PLANS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003), that the Department of Agriculture has under consideration proposed amendments of the National Poultry Improvement Plan and the National Turkey Improvement Plan recommended by the 1956 Conference of representatives of the State agencies cooperating in the administration of the Plans, and that, pursuant to section 101 (b) of the Department of Agriculture Organic Act of 1944, as amended (7 U. S. C. 429), it is proposed to amend Parts 145 and 146 of Title 9, Code of Federal Regulations, to incorporate such recommended amendments. Said Parts 145 and 146 would be amended in the following respects:

1. Section 145.1 *Definitions* would be amended by changing paragraphs (i) and (j) to read:

(i) *ROP Supervisor.* The person employed or authorized to perform functions under § 145.20.

(j) *ROP Inspector.* The person employed or authorized to perform functions under § 145.21.

2. Section 145.2 would be amended to read:

§ 145.2 *Administration.* (a) The Department cooperates through a Memorandum of Understanding with Official State Agencies in the administration of the Plan.

(b) The Official State Agency shall carry out the administration of the Plan within the State according to the applicable provisions of the Plan and Memorandum of Understanding. An Official State Agency may accept for participation an affiliated flock located in another State under a mutual understanding and agreement between the two Official State Agencies regarding conditions of participation and supervision.

(c) The Official State Agency of any State may adopt regulations applicable to the administration of the Plan in such State further defining the provisions of the Plan or establishing higher standards compatible with the Plan.

3. Section 145.8 *Terminology and classification; general* would be amended by changing paragraph (c) to read:

(c) Participating flocks and the eggs and chicks produced from them may be designated by their strain or trade name: When a breeder's name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either (1) birds originating from eggs produced under the direct supervision of the breeder of such strain; or (2) first generation progeny of birds described in subparagraph (1) of this paragraph; or (3) stock purchased from the breeder of the strain and mated, each subsequent generation, only to males secured from the breeder.

4. Section 145.9 would be amended to read:

§ 145.9 *Terminology and classification; hatcheries and dealers.* Participating hatcheries and dealers shall be designated as "National Plan Hatchery" and "National Plan Dealer", respectively.

5. Section 145.10 *Terminology and classification; flocks and products* would be amended by changing paragraphs (a), (b), (c), (d) and (g) to read:

NOTE: Figures 2, 3, 4, 5 and 8 following said paragraphs would remain unchanged.

(a) *U. S. Record of Performance.* Females meeting prescribed standards for performance as individuals or families as provided in § 145.16 or males meeting the pedigree requirements in § 145.17.

(b) *U. S. Performance Tested Parent Stock.* Stock meeting the requirements prescribed in § 145.24.

(c) *U. S. Certified for Eggs.* (1) All males ROP, or (2) all males and females from Performance Tested Parent Stock for egg production mated in the same combination as used in the qualifying parent flock.

(d) *U. S. Certified For Meat.* All males and females from Performance Tested Parent Stock for meat production mated in the same combination as used in the qualifying parent flock.

* * * * *

(g) *U. S. Pullorum-Typhoid Clean.* Flocks in which no pullorum or typhoid reactors were found on the first official blood test provided for in § 145.5 (c): *Provided,* That if a reactor or reactors are found on the first test the flock may qualify with two consecutive official negative tests. In order to sell hatching eggs or chicks of this classification all hatching eggs and chicks handled must meet these requirements.

6. Section 145.14 *Blood testing* would be amended by changing the last sentence of paragraph (a) to read: "Each lot of antigen used for the whole-blood test shall be approved by the Department and effective July 1, 1957, shall be of the polyvalent type."

7. Section 145.14 would be further amended by changing the last two sentences of paragraph (f) to read: "When reactors are submitted within 10 days from date of reading the test and the bacteriological examination fails to demonstrate pullorum or typhoid infection, the flock shall be deemed to have had no pullorum or typhoid reactors. If other members of the Salmonella group or paracolons are isolated, the Official State Agency may disqualify the flock for participation, or require such other action as is deemed necessary with respect to the infection."

8. Section 145.30 *National random sample performance testing program* would be redesignated as § 145.32.

9. Sections 145.15 through 145.29 would be deleted and the following sections inserted in lieu thereof:

§ 145.15 *USROP; general.* (a) The ROP classification may be attained by the qualification of individual birds through trapnesting and pedigree breeding under the supervision of an Official State Agency.

(b) Any person who, in the opinion of the Official State Agency, has the facilities for conducting a systematic program of poultry breeding is eligible for ROP participation.

(c) Candidates may consist of any breed and variety, strain or cross thereof.

(d) Birds trapnested for qualification on the basis of either 10 months or 365 days of trapnesting may be withdrawn within 4 months after the date of the first egg laid by the family, provided the entire (dam) family is withdrawn.

(e) The average egg weight of all birds entered (to be reported in the annual summary) shall be based on the average of not less than the first five and not more than the first ten individual egg weights taken py the breeder and ROP inspector at a time previously agreed upon by the breeder and Official State Agency.

(f) Participants are encouraged to enter central and on-the-farm random sample tests annually as a further measure of the performance of their stock. Entries to be reported in the annual ROP summary in addition to or in lieu of the

candidate report shall be so designated by the participant, to the ROP Supervisor, prior to the beginning of the test.

§ 145.16 *USROP; qualification of females.* (a) Females may qualify as ROP females as follows:

(1) If an individual bird has laid at the rate of 60 percent or more during a period of at least 10 consecutive months, when trapnested a minimum of five days per month and a minimum of 100 days; or

(2) If the members of an entire family of six or more full sisters have laid at an average rate of 65 percent or more during a period of at least 10 consecutive months, when trapnested a minimum of five days per month and a minimum of 100 days; or

(3) If the members of an entire family of eight or more full sisters have laid at an average rate of 70 percent or more when trapnested a minimum of five days per week and a minimum of 13 consecutive weeks.

(b) The trapnest period for each bird shall start with the first egg laid in a trapnest by such bird.

§ 145.17 *USROP; qualification of males.* A male may qualify as an ROP male provided:

(a) The pedigree record and wing band shall show that he was produced from an ROP sire and an ROP dam in a single-male mating, except that for beginning ROP participants a male may qualify on other bases acceptable to the Official State Agency and the APH Branch, such as having a full sister family meet the requirements of § 145.16 (a) (2) or (3); and

(b) In any event the male shall meet the following physical requirements:

(1) Exhibit health and constitutional vigor and show no evidence of any disease, for example, misshapen pupil or deformed leg indicative of leukosis;

(2) Show no serious physical deformities such as crooked back, wry tail, crooked beak, extremely crooked breast bone or toes; and

(3) Be reasonably representative of the breed and variety and meet the minimum weight standards as currently specified in the Standard of Perfection published by the American Poultry Association.

§ 145.18 *USROP; sale of products.* When products are sold or offered for sale under the ROP classification:

(a) The breeder must have on file evidence that such products are from single male matings of qualified ROP males and ROP females.

(b) A copy of such evidence, including records of egg production, hatching and pedigree, must be submitted routinely to the Official State Agency.

(c) Eggs sold, or set for the sale of chicks or stock, shall weigh at least 1 11/12 ounces each.

(d) Reports of trapnest records shall be in terms of percent production, except that records based on 3-, 4-, 5-, 6-, or 7-day-a-week trapnesting for a 365-day trapnest period, may be reported in number of eggs. Only records which result from trapnesting the same days of each week may be converted to number of eggs. Reports of trapnest records referred to in advertising or in any other way shall show the length of the qualifying period on which such records were based.

§ 145.19 *USROP; annual summary.* The ROP Supervisor shall submit to the APH Branch for publication:

(a) For ROP participants having an entry in a central or on-the-farm egg production test as provided in § 145.15 (f), the report specified in § 145.26 (a).

(b) For ROP participants having no entry in a central or on-the-farm egg production test as provided in § 145.15 (f) and for other participants at their request a report comprised of the following:

(1) Breed and variety of the entry (indicate if the entry is a crossbred or strain cross);

(2) Total number of pullets of this breed and variety on the farm;

(3) Basis of qualifying ROP females as provided in § 145.16:

(i) Individual birds producing 219 eggs in 365 days based on 3 or more days of trapnesting a week;

(ii) Individual birds otherwise meeting the requirement of 60 percent production during at least 10 consecutive months;

(iii) Families of 6 or more meeting the requirement of 65 percent production during at least 10 consecutive months;

(iv) Families of 8 or more meeting the requirement of 70 percent production during at least 13 consecutive weeks;

(4) Number of birds of this breed and variety trapnested;

(5) Number of birds withdrawn;

(6) Number of birds entered in ROP;

(7) Number of birds trapnested which were individually pedigreed;

(8) Number meeting the ROP requirements;

(9) Percentage of birds trapnested meeting the ROP requirements;

(10) Percentage of birds entered meeting the ROP requirements on 365-day basis;

(11) Average egg production of all birds entered for qualification on basis of 10 months or 365 days reported in percentage production and number of eggs, respectively.

(12) Average egg weight of all birds entered;

(13) Average body weight of all birds entered (optional with the breeder).

§ 145.20 *USROP; duties of ROP Supervisor.* The ROP supervisor shall represent the Official State Agency in its supervision of ROP participation. His duties shall include:

(a) Keeping on file in his office for at least five years a record of:

(1) All qualified males, with at least one-generation pedigree showing records of egg production of the female ancestors;

(2) All qualified females with records of their egg production for their qualifying period;

(3) All single-male matings; and

(4) All ROP chicks with at least one-generation pedigree.

(b) Submitting the reports required in § 145.19.

§ 145.21 *USROP; duties of ROP Inspector.* The ROP Inspector shall work under the direction of the ROP Supervisor. He shall:

(a) Visit, and inspect the work of, each breeder at least four times a year, his visits to be so timed that each season of the year shall be represented and at least three of these visits shall be unannounced.

(b) Trapnest on each inspection enough pens of ROP candidates to satisfy the Official State Agency as to the accuracy of the breeder's trapnest records;

(c) During the official egg weighing period for the breeder provided under § 145.15 (e), weigh and record the weight of the eggs laid by each bird trapnested;

(d) Examine hens apparently out of production and determine whether they are being credited with eggs;

(e) During the breeding season, examine all birds in single-male matings to see that the birds which constitute these matings are properly listed with the supervisor;

(f) Compare the number of eggs being incubated from each hen with the number she is credited with having laid during the corresponding period, and subsequently with the number of chicks reported hatched and wing-banded. (He shall have the authority to examine for fertility the eggs being incubated.);

(g) Make an annual inspection of pedigree-hatching facilities and methods and chick-banding techniques.

§ 145.22 *U. S. Performance Tested Parent Stock; general.* (a) The Performance Tested Parent Stock classification may be attained by the qualification of flocks through the performance of their progeny in a central random sample test, as specified in §§ 145.27 and 145.28, or in any other central random sample test approved for this purpose by the Department.

(b) Any person who, in the opinion of the Official State Agency, has the facilities for conducting a systematic program of poultry breeding is eligible for participation.

§ 145.23 *U. S. Performance Tested Parent Stock; entry.* (a) The entry may consist of any breed, variety, strain, cross thereof, or hybrid combination bred for the production of eggs, meat or both.

(b) Candidates for flock qualification as Performance Tested Parent Stock for egg production shall be represented by an entry in a central random sample egg production test.

(c) Candidates for flock qualification as Performance Tested Parent Stock for meat production shall be represented by an entry in a central random sample meat production test.

(d) The entry representing candidates for flock qualification as Performance Tested Parent Stock shall be so designated by the participant to the Official State Agency prior to the beginning of the test.

§ 145.24 *U. S. Performance Tested Parent Stock; flock qualification.* (a) Flocks offered for qualification under §§ 145.22 and 145.23 and for which reports have been made as required by § 145.26 may qualify as:

(1) Performance Tested Parent Stock for egg production when progeny from such stock entered in an officially recognized central random sample egg production test, ranked in the top two-thirds of the entries based upon income above feed and chick costs per pullet chick started. (When the breeder has entries in more than one central random sample test, qualification shall be based upon the average rank in all such tests.)

(2) Performance Tested Parent Stock for meat production when progeny from such stock entered in an officially recognized central random sample meat production test (i) laid at an average rate of at least 50 percent on a hen-housed basis and had an average body weight of either at least 3.0 pounds for cockerels and 2.4 pounds for pullets at 8 weeks, or 3.3 pounds for cockerels and 2.7 pounds for pullets at 9 weeks of age; or (ii) ranked in the top third of the entries in rate of lay and rate of growth. (When the breeder has entries in more than one central random sample test, qualification shall be based upon the average performance records in all such tests.)

(b) Any entry for which the results have been invalidated and so indicated in the published test report by the test management will not be considered in compiling performance averages for qualification.

(c) Stock classified as Performance Tested Parent Stock may retain that classification for one year after classification, provided the stock is maintained under the supervision of the qualifying breeder, and is mated in the same combination, and for one more year when, in addition, the stock has been continuously represented by an entry in a central random sample test as provided in § 145.23 (b) and (c).

§ 145.25 *U. S. Performance Tested Parent Stock; sale of products.* When products are sold or offered for sale as Performance Tested Parent Stock, the breeder shall be able to substantiate by records filed with the Official State Agency that such products are from matings qualified as Performance Tested Parent Stock.

§ 145.26 *U. S. Performance Tested Parent Stock; annual summary.* The Official State Agency shall submit to the APH Branch, for publication, whichever of the following reports are appropriate for each entry:

(a) An egg production test report shall comprise the following:

(1) Name and location of test;

(2) Breed and variety of entry (indicate if the entry is a crossbred, strain cross, or hybrid combination);

(3) Breeder's grade designation of chicks entered;

(4) Total number of females in the flock or flocks from which sample was drawn;

(5) Number of pullet chicks started;

(6) Number of pullets housed;

(7) Age at housing (age records started);

(8) Age at which pullets attained 50 percent production;

(9) Average egg weight at 240 days of age;

(10) Average egg production to 500 days of age, hen-housed basis, number and percent;

(11) Average egg production in number of eggs to 500 days of age, hen-day basis;

(12) Adult mortality;

(13) Average egg weight based on one or more weighings at 11 to 13 months of age;

(14) Average body weight based on one or more weighings at 11 to 13 months of age;

(15) Interior egg quality data, if available and requested by breeder;

(b) A meat production test report shall comprise the following:

(1) For the growing phase:

(i) Name and location of test;

(ii) Duration of test (8 or 9 weeks);

(iii) Breed and variety of entry (indicate if the entry is a crossbred, strain cross, or hybrid combination);

(iv) Breeder's grade designation of chicks entered;

(v) Total number of females in flock or flocks from which sample was drawn;

(vi) Number of chicks started;

(vii) Mortality;

(viii) Average weight and variability of all pullets;

(ix) Average weight and variability of all cockerels;

(x) Number of cockerels dressed (at least 50 selected at random);

(xi) Average live weight of dressed cockerels;

(xii) Average New York dressed weight before chilling;

(xiii) Average eviscerated weight, if available;

(xiv) Number of Grade A, B, and C carcasses, based on fleshing, finish; and freedom from pinfeathers;[1]

(xv) Number of birds rejected due to crooked or dented keel, hunchback, misshapen bones, calluses and blisters, scabby or discolored backs, black, blue or green color showing through skin; and

(2) For the laying phase:

(i) Name and location of test;

(ii) Breeder's grade designation of entry (female parent stock);

(iii) Total number of females in flock or flocks from which sample was drawn;

(iv) Number of pullets housed;

(v) Adult mortality for 300 days;

(vi) Average egg production in percent for a period of 300 days, hen-housed basis;

(vii) Average egg production in percent for a period of 300 days, hen-day basis;

(viii) Average egg weight;

(ix) Hatchability.

§ 145.27 *Central random sample egg production test.* (a) A central random sample egg production test shall be conducted at a neutral location under the supervision of an Official State Agency and shall consist of entries from two or more participants.

(b) The sample to be tested shall consist of a random sample of eggs selected by a representative of the Official State Agency from all mated pullets used to produce the grade of chicks to be tested.

(c) At least 50 pullet chicks, hatched from these eggs, shall be started for each entry.

(d) Pen egg production and mortality shall be recorded daily until the birds are 500 days of age.

(e) At the end of the test a summary for each entry shall be submitted by the Official State Agency to the APH Branch, for publication, including the items specified in § 145.26 (a).

§ 145.28 *Central random sample meat production test.* (a) A central random sample meat production test shall be conducted at a neutral location under the supervision of an Official State Agency and shall consist of entries from two or more participants.

(b) The sample shall be selected by a representative of the Official State Agency and (1) for the growing phase shall consist of a random sample of eggs selected from all mated pullets used to produce the grade of chicks to be tested; and (2) for the laying phase shall consist of a random sample of eggs, or chicks, or 4–6 month old pullets selected at random from the female parent stock.

(c) Hatchability shall be based on eggs hatched for the growing phase.

(d) At least 250 straight-run chicks shall be started in the growing phase for each entry.

(e) At least 50 pullets or pullet chicks shall be started in the laying phase for each entry.

(f) Pen egg production and mortality shall be recorded daily for a period of 300 days.

(g) The duration of the growing test shall be either 8 or 9 weeks.

(h) At either 8 or 9 weeks of age individual body weights shall be recorded by sex for the growing phase entry. At this time a minimum of 50 cockerels shall be selected at random and dressed under the supervision of the Official State Agency.

(i) At the end of the test a summary for each entry shall be submitted by the Official State Agency to the APH Branch, for publication, including the items specified in § 145.26 (b).

§ 145.29 *On-the-farm performance tests; general.* (a) These tests shall be conducted under the supervision of the Official State Agency on the breeder's farm or at some other location under his control.

(b) Good but not impractical commercial conditions shall prevail.

(c) The entries shall be selected by a representative of the Official State Agency and each bird shall be identified with an official, sealed and numbered band at the time of selection.

(d) Accurate mortality records shall be kept for the duration of the test, and any bird removed from the test pen shall be considered as a mortality.

(e) Trapnesting of the entry shall be optional with the participant.

(f) There shall be a minimum of six unannounced inspections, with at least two during the period when egg weights and body weights are recorded (11 to 13 months of age).

[1] The grading will be based on United States Classes, Standards and Grades for Poultry as contained in 7 CFR Part 70, Subpart B.

(g) The inspector shall determine the number of eggs laid on the day of inspection as a check on the accuracy of the breeder's records.

(h) The inspector shall weigh, either individually or as a lot, the eggs laid on the days of inspection during the period when egg weights are taken, and the average egg weight shall be computed from these weights.

(i) The entry shall be housed as a unit in a separate pen or building during the time egg production is being recorded.

(j) At the end of an on-the-farm test a summary for each entry shall be submitted by the Official State Agency to the APH Branch for publication, including for an egg production test the items specified in § 145.26 (a) and for a meat production test the items specified in § 145.26 (b).

§ 145.30 *On-the-farm performance test; egg production.* (a) An entry shall consist of at least 125 pullet chicks selected at random by a representative of the Official State Agency and identified with sealed official wing bands of hatching time.

(b) Pen egg production shall be recorded daily until the birds are 500 days of age.

(c) The inspector shall weight the pullets, either individually or as a lot, on one of the days of inspection during the period when the birds are 11 to 13 months of age, and the average body weight shall be computed from these weights.

§ 145.31 *On-the-farm performance test; meat production.* (a) The entry shall consist of:

(1) 250 or more straight-run chicks of the grade to be tested, selected at random by a representative of the Official State Agency from those produced by all mated pullets used to produce the grade of chicks to be tested; and

(2) 100 or more pullets selected at random at 4 to 6 months of age from the female parent stock of the chicks to be tested.

(b) The duration of the test shall be either 8 or 9 weeks.

(c) The chicks shall be floor brooded for the duration of the test with no more than 1½ square feet of floor space per bird.

(d) The inspector shall weight and record the weight and sex of each bird at the conclusion of the test. At this time a minimum of 50 cockrels shall be selected at random and dressed under the supervision of the inspector.

(e) Pen egg production and mortality shall be recorded daily for a period of 300 days.

(f) Hatchability shall be determined by the inspector by checking at random, the hatchability of at least 1,000 eggs from those produced by all mated pullets used to produce the grade of chicks to be tested.

(g) The entrant shall be disqualified by any misrepresentation, falsification or use of artificial practices (except light) such as plumping, hormones, etc.

10. The redesignated § 145.32 would be amended by changing subparagraph (3), through (13), (15), (16), (18), (20), (22), and (23) of paragraph (c) to read:

(3) The test management of each test shall attempt to provide similar environmental conditions for all entries.

(4) The test management of any central random sample test may rule that the results of one or more entries are invalid. The reason for such invalidation shall be a part of the published report.

(5) The results of both the egg production and meat phase shall be promptly published at the conclusion of each year's test. The publication shall include an interpretation of the statistical validity of the results.

(6) The actual performance of each reportable item shall be published rather than a ranking based on one character or combination of characters.

(7) All entries shall consist of sufficient hatching eggs to produce 125 pullet chicks.

(8) Hatching eggs shall be selected at random by a disinterested person designated by the test management.

(9) Hatching eggs shall be selected from those used to produce a designated commercial grade of the breeder's chicks.

(10) The type of entry shall be designated as: "single-strain purebred" (suitable for use in breeding flocks) or "others".

(11) The eggs shall be set on a date determined by the governing board.

(12) Records shall be kept on the fertility and hatchability of the eggs submitted.

(13) Chicks shall be reared intermingled to housing time. The same number of chicks from each entry to be brooded and reared together.)

* * * * *

(15) Rearing mortality shall be based on the period from hatching to housing date.

(16) Laying house mortality shall be based on the period from housing to the conclusion of the test.

* * * * *

(18) Each entry shall be housed not later than 160 days of age and until the end of the test period.

* * * * *

(20) Production records shall be kept from the date of housing until the conclusion of the test, but in no case less than 500 days of age.

* * * * *

(22) Body weight shall be determined at housing time and at the conclusion of the test by bulk weighing the pullets.

(23) Egg quality data shall be collected one day a month during the 8th, 10th, 12th and 14th months of age. This shall be based on measurements of all the eggs laid that day and shall include the following:

(i) Egg shape;

(ii) Shell thickness;

(iii) Meat and blood spots; and

(iv) Albumen quality (broken out basis).

11. Section 146.1 *Definitions* would be amended by changing paragraph (q) to read:

(q) *Strain.* Turkey breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.

12. Section 146.2 would be amended to read:

§ 146.2 *Administration.* (a) The Department cooperates through a Memorandum of Understanding with Official State Agencies in the administration of the Plan.

(b) The Official State Agency shall carry out the administration of the Plan within the State according to the applicable provisions of the Plan and Memorandum of Understanding. An Official State Agency may accept for participation an affiliated flock located in another State under a mutual understanding and agreement between the two Official State Agencies regarding conditions of participation and supervision.

(c) The Official State Agency of any State may adopt regulations applicable to the administration of the Plan in such State further defining the provisions of the Plan or establishing higher standards compatible with the Plan.

13. Section 146.4 *General provisions for all participants* would be amended by adding a new paragraph (g) to read:

(g) Standard and Broad Breasted turkeys of the same variety may not be kept for commercial production on the same premises or hatched for sale in the same hatchery.

14. Section 146.8 *Terminology and classification; general* would be amended by changing paragraph (c) to read:

(c) Participating flocks and the eggs and poults produced from them may be designated by their strain or trade name.

(1) A breeder's strain name may be used only when the stock is (i) first generation progeny (F_1) of stock originating from eggs produced under the direct supervision of the breeder, or (ii) multiplied by persons designated and so reported, to each Official State Agency concerned, by the breeder.

(2) A breeder's trade name may be used only by persons authorized and so reported, to each Official State Agency concerned, by the breeder.

15. Section 146.9 would be amended to read:

§ 146.9 *Terminology and classification; hatcheries and dealers.* Participating hatcheries and dealers shall be designated as "National Plan Hatchery" and "National Plan Dealer," respectively.

16. Section 146.10 *Terminology and classification; flocks and products* would be amended by adding a new subparagraph (3) to paragraph (b) to read:

(3) Market quality of U. S. Grade A, except for dressing and handling defects, for at least 90 percent of all birds graded.

17. Section 146.14 *Blood testing* would be amended by changing the last two sentences of paragraph (f) to read: "When reactors are submitted within 10 days from date of reading the test and the bacteriological examination fails to demonstrate pullorum or typhoid infection, the flock shall be deemed to have had no pullorum or typhoid reactors. If other members of the Salmonella group or paracolons are isolated, the Official State Agency may disqualify the flock for participation, or require such

other action as is deemed necessary with respect to the infection."

18. Section 146.27 *USROP; duties of ROP Supervisor* would be amended by redesignating present subparagraphs (4), (5), (6), (7), and (8) of paragraph (b) as (5), (6), (7), (8), and (9) respectively and adding a new subparagraph (4) to read:

(4) Mating procedure: (Natural mating, artificial insemination or both);

19. Section 146.29 *Turkey reproduction test* would be amended by redesignating present subparagraphs (2) and (3) of paragraph (d) as (3) and (4) respectively and adding a new subparagraph (2) to read:

(2) Mating procedure: (Natural mating, artificial insemination or both);

20. Section 146.30 *Central turkey meat production* would be amended by changing paragraph (b) to read:

(b) The entry shall consist of at least 100 poults, 50 percent of each sex.

21. Section 146.30 would be further amended by changing paragraph (i) to read:

(i) The following data shall be obtained and reported by the Official State Agency for each entry:

(1) Kind of stock (variety, strain or cross; supply flock or breeder replacement);

(2) Mating procedure: (Natural mating, artificial insemination or both);

(3) Number of breeder hens in the flock or flocks from which egg sample was drawn;

(4) Mortality to two weeks of age; to eight weeks of age; and to the end of the test. (When feed conversion data are obtained all birds that die shall be weighed at the time of death and such weights used in the computations);

(5) Average live weight (i) of fryer-roaster entry at the end of test; and (ii) of mature marketing entry at 12 weeks of age; 22 weeks of age; and at close of test. (Such average weights shall be based on individual weights and reported by sexes);

(6) Average eviscerated weight, including neck and giblets, of all birds completing the test, by sexes. (If neck or giblets are not included this shall be explained in all reports);

(7) Average breast width, body depth and keel length of the New York dressed birds, by sexes. (The breast width shall be measured at the widest point 1¾ inches above the keel. The body depth shall be measured at the deepest point. These measurements shall be taken while the birds are suspended by the legs);

(8) Coefficient of variability of final live and eviscerated weights and body measurements;

(9) The number of birds, by sexes, (expressed in percentage) in each U. S. Grade with all factors considered, except dressing defects; and the number in U. S. Grade A for each of following factors: (i) fleshing; (ii) finish; and (iii) freedom from pinfeathers;[1]

[1] The grading will be based on United States Classes, Standards and Grades for Poultry, as contained in 7 CFR, Part 70, Subpart B.

(10) Other items, such as dressing percentage, feed conversion and defects of economic importance, at the option of the Official State Agency and the APH Branch.

22. Section 146.31 *On-the-farm turkey meat production test* would be amended by changing paragraph (f) to read:

(f) The following data shall be obtained and reported by the Official State Agency for each entry:

(1) Kind of stock (variety, strain or cross; supply flock or breeder replacement);

(2) Mating procedure: (Natural mating, artificial insemination or both);

(3) Number of hens in the flock or flocks from which poult sample was drawn;

(4) Percentage of poults started that finished the test;

(5) Average live weight, by sexes, based on individual weights of all birds at the close of the test;

(6) Average eviscerated weight, including neck and giblets, of all birds completing the test, by sexes. (If neck or giblets are not included this shall be explained in all reports.);

(7) Average breast width, body depth and keel length of the New York dressed birds, by sexes. (The breast width shall be measured at the widest point 1¾ inches above the keel. The body depth shall be measured at the deepest point. These measurements shall be taken while the birds are suspended by the legs.);

(8) Coefficient of variability of all weights and body measurements.

The proposed §§ 145.15 through 145.32 include, in addition to other proposed amendments, the conference recommendation that Performance Tested Parent Stock be established as a program separate from ROP. Due to the complexity of the revisions, additions and redesignations involved by this recommendation, the publication of these sections in their entirety was necessary for clarity.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments of the National Poultry and Turkey Improvement Plans may do so by filing them with the Chief, Animal and Poultry Husbandry Research Branch, Agricultural Research Center, Beltsville, Maryland, within 30 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D. C., this 31st day of August 1956.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 56-7196; Filed, Sept. 6, 1956; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order 2816]

DIRECTOR, OFFICE OF TERRITORIES

DELEGATION OF AUTHORITY TO NEGOTIATE FOR SERVICES OF ARCHITECTURAL AND ENGINEERING FIRMS

SECTION 1. *Delegation of authority.* (a) The Director, Office of Territories, is authorized to exercise, subject to the provisions of paragraph (b) of this section, the authority delegated by the Administrator of General Services (21 F. R. 6425) to the Secretary of the Interior, for the period ending September 1, 1957, to negotiate, without advertising, under section 302 (c) (4) of the Federal Property and Administrative Services Act of 1949, as amended (66 Stat. 594, 41 U. S. C., sec. 252 et seq.), contracts for the services of architectural and engineering firms in connection with construction activities under the Alaska Public Works Program authorized by the Alaska Public Works Act approved August 24, 1949 (63 Stat. 627), as amended by the act of July 15, 1954 (68 Stat. 483, 48 U. S. C. 486j).

(b) The authority granted in paragraph (a) of this section shall be exercised in accordance with the applicable limitations and requirements in the Federal Property and Administrative Services Act, particularly sections 304 and 307, and in accordance with policies, procedures and controls prescribed by the General Services Administration and shall extend beyond September 1, 1957, for such periods as may be covered by subsequent delegations of the Administrator of General Services for the same purposes.

SEC. 2. *Redelegation.* The Director, Office of Territories, may, in writing, redelegate or authorize written redelegation to any officer or employee of the Office of Territories of the authority granted in section 1 of this order. Each such redelegation shall be published in the FEDERAL REGISTER.

SEC. 3. *Order superseded.* This order shall supersede Order No. 2800 dated August 30, 1955.

FRED G. AANDAHL,
Acting Secretary of the Interior.

AUGUST 31, 1956.

[F. R. Doc. 56-7166; Filed, Sept. 6, 1956; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MATSON NAVIGATION CO. ET AL.

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 7707-5, between Matson Navigation Company, Isthmian Lines, Inc. and Tri-Coast Steamship Company (formerly Isthmian Steamship Company), modifies approved Agreement No. 7707, as amended, to record Isthmian Lines, Inc., as a party in place of Isthmian Steamship Company (now Tri-Coast Steamship Company). Agreement No. 7707, as amended, between Matson Navigation Company and Isthmian Steamship Company, covers a pooling and cooperative working arrangement in the trade between the Hawaiian Islands and Atlantic and/or Gulf ports of the United States.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 4, 1956.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 56-7165; Filed, Sept. 6, 1956; 8:45 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended March 1, 1956, 21 F. R. 1349).

The following learner certificates were issued authorizing the employment of not more than ten percent of the total number of factory production workers as learners for normal labor turnover purposes:

Ashland Shirt Corp., Ashland, Pa.; effective 8-24-56 to 8-23-57 (men's dress and sport shirts).

Dodge Manufacturing Co., Inc., Eastman, Ga.; effective 9-9-56 to 9-8-57 (men's and boys' pajamas).

Fairfield Manufacturing Co., Inc., Winnsboro, S. C.; effective 9-9-56 to 9-8-57 (women's dresses).

Fleetline Industries, Inc., Garland, N. C.; effective 6-20-56 to 8-19-57 (men's sport shirts).

Greenwood Shirt Co., Inc., 145 Maxwell Avenue, Greenwood, S. C.; effective 8-24-56 to 8-23-57 (men's and boys' sport shirts).

Korell Co., Division of Kay Dunhill, Inc., Mechanicville, N. Y.; effective 8-22-56 to 8-21-57 (women's dresses).

Lad'n Dad Slacks, Inc., Cumming, Ga.; effective 9-1-56 to 8-31-57 (boys' and men's slacks).

Lebro Shirt Manufacturing Co., Lykens, Pa.; effective 8-22-56 to 8-21-57 (men's shirts).

Mac Smith Garment Co., Inc., Gulfport, Miss.; effective 8-22-56 to 8-21-57 (men's dress and sport shirts).

Monleigh Garment Co., Inc., Plant No. 2, Route No. 5, Mocksville, N. C.; effective 9-1-56 to 8-31-57 (ladies' blouses and men's sport shirts).

Royal Manufacturing Co., Inc., Sandersville, Ga.; effective 8-27-56 to 8-26-57 (men's and boys' woven sport shirts).

Stapleton Garment Co., Inc., Stapleton, Ga.; effective 8-20-56 to 8-19-57 (men's shorts and trousers).

Stapleton Garment Co., Inc., Stapleton, Ga.; effective 8-20-56 to 8-19-57; 10 percent of factory production workers engaged in the manufacture of women's shorts and pedal pushers (women's shorts and pedal pushers).

Weiss Shirt Co., Inc., 520 Lehman Street, Lebanon, Pa.; effective 9-7-56 to 9-6-57 (cotton shirts).

Wilgree Manufacturing Co., Inc., Broad Street, Camilla, Ga.; effective 8-23-56 to 8-27-57 (men's dress and sport shirts).

The following learner certificates were issued for normal labor turnover purposes and, except as otherwise indicated below, a maximum of 5 learners were authorized:

By-More Garment Co., 7 Cortland Street, Homer, N. Y.; effective 8-27-56 to 8-26-57 (children's cotton clothing).

Cory Manufacturing Co., Inc., 405 Warren Street, Hackettstown, N. J.; effective 8-23-56 to 8-22-57 (ladies' blouses and sportswear, children's sportswear).

Criefield Shirt and Pajama Co., Inc., Criefield, Md.; effective 8-23-56 to 8-22-57; 10 learners (boys' shirts).

Dantan Co., Dumas, Ark.; effective 9-1-56 to 8-31-57 (ladies' shorts, bermudas, blouses and pedal pushers).

C. R. Dix, Inc., 7 Augusta Street, Greenville, S. C.; effective 8-27-56 to 8-26-57; 10 learners (junior dresses).

B. F. Moore & Co., Newport, Vt.; effective 8-24-56 to 8-23-57 (men's, misses', and children's ski clothing).

Rosemark Underwear Co., 236 Catherine Street, Bloomsburg, Pa.; effective 8-23-56 to 8-22-57 (ladies' nightgowns and pajamas).

Sherman Manufacturing Co., Lamar, S. C.; effective 8-23-56 to 8-22-57; 10 learners (cotton dresses).

Westway Manufacturing Co., 212 West Main Street, Fredericksburg, Tex.; effective 8-24-56 to 8-23-57 (boys' shirts and jackets).

The following learner certificates were issued for plant expansion purposes. The number of learners authorized is indicated:

Ackerman Manufacturing Co., Ackerman, Miss.; effective 9-1-56 to 2-28-57; 30 learners (work shirts).

Allencraft Corp., 217 South Church Street, Murfreesboro, Tenn.; effective 8-23-56 to 2-22-57; 10 learners (men's and boys' sport shirts).

Cowden Manufacturing Co., Woodward, Okla.; effective 9-1-56 to 2-28-57; 30 learners (men's and boys' dungarees).

Helena Garment Co. West Helena, Ark.; effective 9-1-56 to 2-28-57; 75 learners (junior dresses).

Hickman Garment Co., Hickman, Ky.; effective 9-1-56 to 2-28-57; 25 learners (ladies', girls', boys' and men's jackets).

Kent Uniforms, Inc., Burkesville, Ky.; effective 8-22-56 to 2-21-57; 20 learners (nurses and utility uniforms).

LeNore Garments, Inc., 230 West Fifth Street, Tempe, Ariz.; effective 8-20-56 to 2-19-57; 10 learners (ladies' and children's aprons).

Louisville Garment Co., Inc., Louisville, Miss.; effective 9-1-56 to 2-28-57; 15 learners (men's and boys' pants).

Monleigh Garment Co., Inc., Plant No. 2, Route No. 5, Mocksville, N. C.; effective 9-1-56 to 2-28-57; 10 learners (ladies' blouses and men's sportshirts).

Mount Vernon Garment Co., Mount Vernon, Ga.; effective 9-1-56 to 2-28-57; 30 learners (pants).

Sustan Garments, Inc., Winnsboro, La.; effective 9-1-56 to 2-28-57; 10 learners (sportswear).

Glove Industry Learner Regulations (29 CFR 522.60 to 522.65, as amended March 1, 1956, 21 F. R. 581).

Florida Knitting Mills, Inc., 20 North Coburn Avenue, Orlando, Fla.; effective 8-25-56 to 8-24-57; 10 learners for normal labor turnover purposes (gloves and mittens).

Jasper Glove Co., Inc., 611 Main Street, Jasper, Ind.; effective 8-25-56 to 8-24-57; 10 learners for normal labor turnover purposes (work gloves).

Picardy Mills, Inc., Sherwood Reeve Street, Dunmore, Pa.; effective 8-25-56 to 8-24-57; 10 learners for normal labor turnover purposes (women's fabric gloves).

Riegel Textile Corp., Brundidge, Ala.; effective 9-1-56 to 2-28-57; 15 learners for plant expansion purposes (work gloves).

Wells Lamont Corp., Hugo, Okla.; effective 9-1-56 to 2-28-57; 15 learners for plant expansion purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended March 1, 1956, 21 F. R. 629).

Aberdeen Hosiery Mills Co., Inc., Aberdeen, N. C.; effective 8-28-56 to 8-27-57; 5 learners for normal labor turnover purposes (full-fashioned and seamless).

Alba Hosiery Mills, Inc., Valdese, N. C.; effective 8-22-56 to 8-21-57; 5 percent of factory production workers for normal labor turnover purposes (seamless).

Burlington Industries, Inc., Harriman Hosiery Plant, Harriman, Tenn.; effective 9-1-56 to 2-28-57; 50 learners for plant expansion purposes (seamless).

Burlington Industries, Inc., Scottsboro Hosiery Plant, Scottsboro, Ala.; effective 9-1-56 to 2-28-57; 25 learners for plant expansion purposes (seamless).

Hughes Affiliated Mills, Highway No. 70 and 14th Street SW., Hickory, N. C.; effective 8-22-56 to 8-21-57; 5 learners for normal labor turnover purposes (seamless).

Johns Hosiery Mills, Inc., Glen Alpine, N. C.; effective 8-22-56 to 8-21-57; 5 learners for normal labor turnover purposes (seamless).

Kosciusko Hosiery Co., Division of Wayne Knitting Mills, Kosciusko, Miss.; effective 8-23-56 to 2-22-57; 50 learners for plant expansion purposes (seamless).

Lorimer Hosiery Mills, Inc., Broad Street, Burlington, N. C.; effective 8-25-56 to 8-24-57; 5 learners for normal labor turnover purposes (seamless).

The Nolde & Horst Co., Division of Chester H. Roth Co., Inc., Pittsboro, N. C.; effective 9-1-56 to 2-28-57; 65 learners for plant expansion purposes (seamless).

Portage Hosiery Co., Portage, Wis.; effective 8-20-56 to 8-19-57; 5 percent of factory

production workers for normal labor turnover purposes (seamless).

Van Raalte Co., Inc., Blue Ridge, Ga.; effective 9–1–56 to 2–28–57; 10 learners for plant expansion purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.30 to 522.35, as amended March 1, 1956, 21 F. R. 581).

Athens Mills, Inc., 2 South Franklin Street, Athens, N. Y.; effective 8–28–56 to 8–27–57; 5 learners for normal labor turnover purposes (ladies' lingerie and children's wear).

Atlanta Knitting Mills, Inc., 130 West Main Street, Catskill, N. Y.; effective 8–28–56 to 8–27–57; 5 percent of factory production workers for normal labor turnover purposes (ladies' lingerie and children's wear).

Carolina Underwear Co., Forsyth Division, Forsyth Street, Thomasville, N. C.; effective 8–15–56 to 2–14–57; 10 learners for plant expansion purposes (women's, misses' and children's panties).

Centralia Knitting Mills, 1002 West Main Street, Centralia, Wash.; effective 8–22–56 to 8–21–57; 5 learners for normal labor turnover purposes (men's, women's and children's knitted outerwear).

Leininger Knitting Mills, Orwigsburg, Pa.; effective 8–24–56 to 8–23–57; 4 learners for normal labor turnover purposes (knit outerwear and underwear).

Shoe Industry Learner Regulations (29 CFR 522.50 to 522.55, as amended March 1, 1956, 21 F. R. 1195).

Livermore Shoe Co., Livermore Falls, Maine; effective 8–22–56 to 8–21–57; 10 percent of factory production workers for normal labor turnover purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.12, as amended February 28, 1955, 20 F. R. 645).

The following learner certificates were issued to the companies listed below manufacturing miscellaneous products. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated:

J. Capps & Sons, Ltd., 500 West Lafayette Avenue, Jacksonville, Ill.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operator, hand sewing and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's suits, topcoats, sport coats, and slacks).

Famous-Sternberg, Inc., 950 Poeyfarre Street, New Orleans, La.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operating, final pressing hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's suits).

France Neckwear Manufacturing Corp., 1217 South 13th Street, Wilmington, N. C.; effective 8–27–56 to 2–26–57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 160 hours of the 320-hour learning period, for the occupations of sewing machine operator and presser; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's neckwear).

Grant County Manufacturing Co., Williamstown, Ky.; effective 9–1–56 to 2–28–57; not less than 80 cents per hour for the first 320 hours and 85 cents per hour for the remaining 160 hours of the 480-hour learning period, for the occupation of hand sewers; authorizing the employment of 10 learners for normal labor turnover purposes (baseballs, softballs).

Grant County Manufacturing Co., Corinth Division, Corinth, Ky.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 160 hours of the 320-hour learning period, for the occupations of sewing machine operators; authorizing the employment of 5 learners for normal labor turnover purposes (baseball uniforms, caps, etc.).

Hardwick Clothes, Inc., Cleveland, Tenn.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period; for the occupations of sewing machine operating, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's and boys' tailored garments).

Harvard Clothes, Inc., 211 12th Avenue South, Wisconsin Rapids, Wis.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operating, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 learners for normal labor turnover purposes (men's suits, topcoats, etc.).

MacGregor Sport Products, Inc., Findlay and John Streets, Cincinnati, Ohio; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 160 hours of the 320-hour learning period, for the occupation of sewing machine operators; authorizing the employment of 18 learners for normal labor turnover purposes (baseball uniforms, etc.).

Mike Mennies and Son, 3163 North Witte Street, Philadelphia, Pa.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for a maximum of 240 hours, for the occupation of hand sewers; authorizing the employment of 4 learners for normal labor turnover purposes (slipper socks).

Mohawk Lining Co., 804 Broadway, Schenectady, N. Y.; effective 9–1–56 to 2–28–57; not less than 80 cents per hour for the first 320 hours and 90 cents per hour for the remaining 160 hours of the 480-hour learning period, for the occupation of glove lining sewer; authorizing the employment of 3 learners for normal labor turnover purposes (glove linings).

Merit Clothing Co., Martin, Tenn.; effective 8–24–56 to 2–23–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operator, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's suits, sport coats, slacks, and topcoats).

Ratner Manufacturing Co., 730 13th Street, San Diego, Calif.; effective 9–1–56 to 2–28–57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operators, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's sportcoats, suits, slacks).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of the Part 522.

Signed at Washington, D. C. this 29th day of August 1956.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 56–7167; Filed, Sept. 6, 1956; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–9933, G–11000]

STANOLIND OIL AND GAS CO.

ORDER PERMITTING CHANGE IN RATES DUE TO REDUCTION IN TEXAS OCCUPATION TAX AND SUSPENDING PROPOSED INCREASE IN RATES

On July 30, 1956 Stanolind Oil and Gas Company (Applicant) submitted for filing proposed changes in its rate schedules presently in effect subject to refund for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are contained in the following designated filings which are proposed to become effective on the date shown:

Description, Purchase, Rate Schedule Designation, and Effective Date [1]

Notice of change dated July 24, 1956; Texas Illinois Natural Gas Pipeline Company; Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 51; Sept. 1, 1956.

Notice of change dated July 24, 1956; Texas Illinois Natural Gas Pipeline Company; Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 60; Sept. 1, 1956.

By order issued January 31, 1956, in Docket No. G–9933, the Commission suspended the increase in rates and charges proposed by the Applicant in Supplement No. 6 to its FPC Gas Rate Schedule No. 51 and in Supplement No. 9 to its FPC Gas Rate Schedule No. 60. Such increased rates and charges are presently in effect subject to refund if subsequently so ordered by the Commission.

Applicant's July 30 1956, filings propose (1) to give effect in the rates being collected subject to refund to the reduction in the Texas occupation tax as of September 1, 1956; and (2) to reflect as of the same date a periodic increase in the price of gas sold Texas Illinois Nat-

[1] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Applicant, if later.

ural Gas Pipeline Company. The increased rates and charges proposed by the periodic increase have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) It is appropriate and in the public interest that the change in rates proposed in Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 51 and Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 60 to give effect to the change in the Texas occupation tax should be permitted to become effective as of September 1, 1956; provided, however, that such change in rates shall in no way amend, modify or alter the rate suspension proceedings instituted in Docket No. G-9933.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed in Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 51 and Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 60 and that said supplements insofar as they pertain to periodic rate increases be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 51 and Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 60, insofar as each provides for a change in rate to give effect to the change in Texas occupation tax, hereby are permitted to become effective as of September 1, 1956, subject to the proviso contained in Finding (1) above.

(B) Pursuant to the authority contained in sections 4, 5, 15 and 16 of the Natural Gas Act, and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 51 and Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 60; and pending such hearing and decision thereon, said Supplements insofar as they relate to the proposed periodic increased rates and charges hereby are suspended in Docket No. G-11000 and the use thereof deferred until February 1, 1957, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Issued: August 31, 1956.

By the Commission.[1]

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7169; Filed, Sept. 6, 1956; 8:46 a. m.]

[Docket No. G-10998]

TIDEWATER OIL CO.

ORDER SUSPENDING PROPOSED INCREASE IN RATES

On July 30, 1956, Tidewater Oil Company (Applicant) submitted for filing proposed changes in its rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are contained in the following designated filings which are proposed to become effective on the date shown.

Description, Purchaser, Rate Schedule Designation; and Proposed Effective Date[2]

Notices of change undated; Texas Illinois Natural Gas Pipeline Company; Supplement No. 10 to Applicant's FPC Gas Rate Schedule No. 5 and Supplement 12 to Applicant's FPC Gas Rate Schedule No. 18; Sept. 1, 1956.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed in Supplement No. 10 to Applicant's FPC Gas Rate Schedule No. 5 and in Supplement No. 12 to Applicant's FPC Gas Rate Schedule No. 18, and that said supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4, 5, 15 and 16 of the Natural Gas Act, and the Commission's general rules and regulations (18 CFR, Chapter I) a public hearing be held upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 10 to Applicant's FPC Gas Rate Schedule No. 5 and Supplement No. 12 to Applicant's FPC Gas Rate Schedule No. 18, and pending such hearing and decision thereon, such supplements be and the same hereby are suspended and the use thereof deferred until February 1, 1957, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplements hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Issued: August 31, 1956.

By the Commission.[1]

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7170; Filed, Sept. 6, 1956; 8:46 a.m.]

[Docket No. G-10999]

AMERADA PETROLEUM CORP.

ORDER SUSPENDING PROPOSED INCREASE IN RATES

On July 26, 1956, Amerada Petroleum Corporation (Applicant) submitted for filing a proposed change in its rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing which is proposed to become effective on the date shown.

Description, Purchaser, Rate Schedule Designation, and Proposed Effective Date[2]

Notice of change dated July 21, 1956; Texas Illinois Natural Gas Pipeline Company; Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 8; Sept. 1, 1956.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed in Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 8 and that said supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4, 5, 15 and 16 of the Natural Gas Act, and the Commission's general rules and regulations (18 CFR, Chapter I) a public hearing be held upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 8 and pending such hearing and decision

[1] Acting Chairman Digby dissenting.

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[1] Commissioner Digby dissenting as to suspension.

[2] The stated effective date is the first day after expiration of the required thirty days' notice or the effective date proposed by the Applicant, if later.

thereon, such supplement be and the same hereby is suspended and the use thereof deferred until February 1, 1957, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Issued: August 31, 1956.

By the Commission.[1]

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7171; Filed, Sept. 6, 1956; 8:46 a. m.]

[Docket No. E-6705]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF APPLICATION

AUGUST 31, 1956.

Take notice that on August 28, 1956, an application was filed with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, by California Electric Power Company (Applicant), a corporation organized and existing under the laws of the State of Delaware, and doing business as a qualified foreign corporation in the States of California and Nevada, with its principal place of business in Riverside, California, for authorization to issue and sell $8,000,000, principal amount, of First Mortgage Bonds, Series due 1986, at competitive bidding.

Applicant proposes to publicly invite sealed written proposals for the purchase or underwriting of the Bonds at least one week prior to entering into any contract or agreement for the issuance or sale thereof. The proceeds to be obtained from the proposed issuance will be used by Applicant to discharge its short-term bank loan obligations, for property acquisitions and to carry on its current construction program; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 17th day of September 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest, in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7172; Filed, Sept. 6, 1956; 8:46 a. m.]

[1] Acting Chairman Digby dissenting.

[Project No. 2000]

DEPARTMENT OF PUBLIC UTILITIES OF THE COMMONWEALTH OF MASSACHUSETTS V. POWER AUTHORITY OF THE STATE OF NEW YORK

NOTICE OF POSTPONEMENT OF HEARING

AUGUST 30, 1956.

Upon consideration of the application filed on August 28, 1956, by the Department of Public Utilities of the Commonwealth of Massachusetts, requesting postponement for a period of not less than 30 days of the hearing now scheduled for September 11, 1956, in the above-entitled matter;

Said hearing is postponed to commence at 10:00 a. m., e. d. s. t., on October 15, 1956, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7173; Filed, Sept. 6, 1956; 8:46 a. m.]

[Project No. 2208]

NORTHERN LIGHTS, INC.

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

AUGUST 31, 1956.

Public notice is hereby given that Northern Lights, Inc., of Sandpoint, Idaho, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for a preliminary permit for proposed Project No. 2208 located on the Yaak River in Lincoln County Montana, and affecting lands of the United States within the Kootenai National Forest, which will consist of two developments; (1) Five Mile Dam at river mile 5 in Section 19, T. 33 N., R. 33 W., P M. Montana (described in previous notice as Section 19, T. 61 N., R. 33 W., P M. Montana) creating a reservoir with normal pool elevation of 2,380 feet and 12,000 acre-feet capacity; a powerhouse with installed capacity of about 6,650 KW operating under an average head of about 300 feet; (2) Yaak Falls Dam at river mile 9 in Section 4, T. 33 N., R. 33 W., P M. Montana (described in previous notice as Section 19, T. 61 N., R. 33 W., P. M. Montana) creating a reservoir with normal pool elevation of 2,600 feet and 13,000 acre-feet capacity; a powerhouse with installed capacity of about 3,700 KW operating under an average head of about 200 feet. The power to be developed would be used by the applicant to serve its present and future customers, and will replace power that is now purchased from the Bonneville Power Administration.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure of the Commission (18 CFR 1.8 or 1.10) The last date upon which protests may be filed is October 15, 1956. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56-7174; Filed, Sept. 6, 1956; 8:46 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

PROMULGATION OF FEDERAL SHARE FOR THE PURPOSES OF THE LIBRARY SERVICES ACT, AS AMENDED

Pursuant to section 6 (d) of the Library Services Act (70 Stat. 293) as amended by section 25 of Public Law 896, 84th Congress (70 Stat. 911) and it having been found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to the per capita incomes of the States and of the continental United States are the years 1953, 1954, and 1955, the Federal shares for the purposes of such act, as indicated below, for the several States, Alaska, Hawaii, the Virgin Islands, Puerto Rico, and Guam, as determined pursuant to said act and on the basis of said income data, are hereby promulgated to be effective for the fiscal years ending June 30, 1958 and June 30, 1959:

State	Federal share (percent)	State	Federal share (percent)
Alabama	66.00	New Hampshire	54.39
Arizona	55.72	New Jersey	37.42
Arkansas	66.00	New Mexico	60.91
California	38.59	New York	39.17
Colorado	52.00	North Carolina	66.00
Connecticut	33.00	North Dakota	64.88
Delaware	33.00	Ohio	44.09
Florida	55.72	Oklahoma	59.19
Georgia	64.88	Oregon	49.97
Idaho	59.38	Pennsylvania	48.14
Illinois	38.90	Rhode Island	46.92
Indiana	48.08	South Carolina	66.00
Iowa	55.66	South Dakota	63.77
Kansas	53.97	Tennessee	65.09
Kentucky	66.00	Texas	56.16
Louisiana	63.69	Utah	57.56
Maine	58.41	Vermont	59.19
Maryland	45.17	Virginia	58.36
Massachusetts	44.31	Washington	45.20
Michigan	42.09	West Virginia	66.02
Minnesota	53.83	Wisconsin	51.36
Mississippi	66.00	Wyoming	49.02
Missouri	51.55		
Montana	50.36		
Nebraska	55.91		
Nevada	33.56		

Outlying parts of the United States

Alaska	66.00	Territory of Hawaii	50.00
Guam	66.00	Virgin Islands	66.00
Puerto Rico	66.00		

The foregoing is also promulgated as the Federal share to be effective until July 1, 1957.

S. M. BROWNELL, *Commissioner of Education.*

Approved: August 31, 1956.

HEROLD C. HUNT, *Acting Secretary.*

[F. R. Doc. 56-7188; Filed, Sept. 6, 1956; 8:49 a. m.]

Public Health Service

PROMULGATION OF FEDERAL SHARE FOR EACH STATE UNDER SECTION 5 (h) OF THE FEDERAL WATER POLLUTION CONTROL ACT

Pursuant to section 5 (h) of the Federal Water Pollution Control Act (Public Law 660—84th Congress, 70 Stat–501) and section 4 of the Water Pollution Control Act Amendments of 1956 (70 Stat–507) and having found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to the per capita income of the States and of the continental United States, are the years 1952, 1953, and 1954.

The following Federal shares for the several States, Alaska, Hawaii, Puerto Rico, the District of Columbia and the Virgin Islands, as determined pursuant to said act and on the basis of said income data, are hereby promulgated for the period beginning July 1, 1956, and ending June 30, 1959:

State	Federal share	State	Federal share
Alabama	66⅔	New Hampshire	55.6
Arizona	54.4	New Jersey	37.9
Arkansas	66⅔	New Mexico	61.1
California	38.5	New York	39.5
Colorado	50.4	North Carolina	66⅔
Connecticut	33⅓	North Dakota	66.3
Delaware	33⅓	Ohio	43.6
District of Columbia	35.6	Oklahoma	59.6
Florida	55.9	Oregon	49.2
Georgia	64.8	Pennsylvania	47.8
Idaho	57.8	Rhode Island	48.2
Illinois	39.4	South Carolina	66⅔
Indiana	47.6	South Dakota	63.4
Iowa	54.6	Tennessee	66.2
Kansas	52.1	Texas	56.0
Kentucky	65.5	Utah	57.7
Louisana	63.6	Vermont	60.5
Maine	57.6	Virginia	53.4
Maryland	45.0	Washington	45.0
Massachusetts	45.7	West Virginia	64.1
Michigan	42.4	Wisconsin	50.9
Minnesota	54.3	Wyoming	48.4
Mississippi	66⅔	Alaska	50.0
Missouri	51.2	Hawaii	50.0
Montana	50.2	Puerto Rico	66⅔
Nebraska	54.5	Virgin Islands	66⅔
Nevada	33⅓		

Dated: August 21, 1956.

L. E. BURNEY,
Surgeon General.

Approved: August 31, 1956.

HEROLD C. HUNT,
Acting Secretary.

[F. R. Doc. 56–7187; Filed, Sept. 6, 1956; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[No. 9200]

RAILWAY MAIL PAY

RAILROADS' APPLICATION FOR INCREASE IN RATES AND COMPENSATION

Upon consideration of the applications of certain railroads (listed in the appendix below), filed July 3, August 1, and August 7, 1956, for reexamination of the rates, rules and compensation for the transportation of the United States Mail over their lines, and the service connected therewith, and for an increase in said rates and compensation; and of the replies of the Postmaster General to said applications, embracing a cross-application for certain relief, alleging that present rates and compensation are in excess of fair and reasonable rates and compensation and requesting certain information with respect to payments received by the respondent railroads for transportation of express matter, as more specifically set forth in the said replies; and upon consideration of the provisions of U. S. Code, title 39, sections 542 to 554, inclusive (Railway Mail Service Pay);

It is ordered, That the said applications be, and they are hereby, assigned for hearing, at such times and places as the Commission may hereafter direct, upon the issues raised by the applications, and by the cross-application of the Postmaster General:

And it is further ordered, That a copy of this order be served upon said applicants and upon the Postmaster General of the United States, and that notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy thereof with the Director, Division of the Federal Register, Washington, D. C.

Dated at Washington, D. C., this 31st day of August, A. D. 1956.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

APPENDIX—LIST OF APPLICANT RAILROADS

Application filed July 3, 1956:

The Baltimore and Ohio Railroad Company.
Bangor and Aroostook Railroad Company.
Boston and Maine Railroad.
Canadian National Railway Company.
Canadian Pacific Railway Company.
The Central Railroad Company of New Jersey.
Central Vermont Railway, Inc.
The Chesapeake and Ohio Railway Co.
Chicago & Eastern Illinois Railroad Company.
The Delaware and Hudson Railroad Corp.
The Delaware, Lackawanna and Western Railroad Company.
Erie Railroad Company.
Grand Trunk Western Railroad Company.
Lehigh Valley Railroad Company.
The Long Island Rail Road Company.
Maine Central Railroad Company.
The New York Central Railroad Company.
The New York Central Railroad Company (Lessee, Boston and Albany Railroad).
The New York, Chicago and St. Louis Railroad Company.
The New York, New Haven & Hartford Railroad Company.
Norfolk and Western Railway Company.
The Pennsylvania Railroad Company.
Pennsylvania-Reading Seashore Lines.
The Pittsburgh and Lake Erie Railroad Company.
Reading Company.
Richmond, Fredericksburg & Potomac Railway Company.
Vermont and Province Line Railroad Company.
Western Maryland Railway Company.

Application filed August 1, 1956:

Atlantic Coast Line Railroad Company.
The Alabama Great Southern Railroad Company.
Albany and Northern Railway Company.
Atlanta & Saint Andrews Bay Railway Company.
Atlanta and West Point Rail Road Company.
Carolina, Clinchfield and Ohio Railway, Lessees:
Atlantic Coast Line Railroad Company.
Louisville and Nashville Railroad Company.
Central of Georgia Railway Company.
Charleston & Western Carolina Railway Company.
The Cincinnati, New Orleans and Texas Pacific Railway Company.
Florida East Coast Railway Company.
The Georgia Northern Railway Company.
Georgia Railroad.
Georgia Southern and Florida Railway Company.
Gulf, Mobile and Ohio Railroad Company.
Illinois Central Railroad Company.
Louisville and Nashville Railroad Company.
The Nashville, Chattanooga & St. Louis Railway.
New Orleans and Northeastern Railroad Company.
Seaboard Air Line Railroad Company.
Southern Railway Company.
Tennessee Central Railway Company.
The Western Railway of Alabama.

Application filed August 7, 1956.

New York, Susquehanna and Western Railroad Company.

[F. R. Doc. 56–7180; Filed, Sept. 6, 1956; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order SA–121]

FIRST HUNGARIAN GENERAL ASSURANCE CO.

In re: Debt owing to the First Hungarian General Assurance Company, also known as Erste Ungarische Allgemeine Assecuranz Gesellschaft. F–34–1018; F–63–60, Zurich.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106–55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of the Swiss Credit Bank, also known as Credit Suisse, New York Agency, 25 Pine Street, New York 5, New York, in the sum of $54,681.40, being a portion of the ordinary blocked account entitled, "Credit Suisse, Zurich (Swiss Credit Bank, Zurich)," maintained at the aforesaid bank, together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947 was, owned directly or indirectly by the First Hungarian General Assurance Company, also known as Erste Ungarische Allgemeine Assecuranz Gesellschaft, Budapest, Hungary, a national of Hun-

gary as defined in said Executive Order 8389, as amended.

2. That the property described is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949 as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949 as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on August 31, 1956.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 56-7181; Filed, Sept. 6, 1956; 8:48 a. m.]

[Vesting Order SA-122]

FRANCIA-MAGYAR PAMUTIPAR, R. T.

In re: Debt owing to Francia-Magyar Pamutipar, R. T.; F-34-1689.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of Anderson, Clayton & Co., of Houston, Texas, arising out of a running book account entitled "Francia-Magyar Pamutipar R. T.," maintained with said Company, together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947 was, owned directly or indirectly by Francia-Magyar Pamutipar, R. T., Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562), which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on August 31, 1956.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 56-7182; Filed, Sept. 6, 1956; 8:48 a. m.]

[Vesting Order SA-123]

PRAGUE CREDIT BANK, SOFIA, BULGARIA

In re: Debt owing to Prague Credit Bank, Sofia, Bulgaria; F-57-1256; F-17-1826.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of The New York Trust Company, 100 Broadway, New York 15, New York, arising out of an account entitled "Prague Credit Bank, Sofia, Bulgaria," maintained at the aforesaid bank, together with any and all rights to demand, enforce and collect the same,

is property within the United States, which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947 was, owned directly or indirectly by the Prague Credit Bank, Sofia, Bulgaria, a national of Bulgaria as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on August 31, 1956.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 56-7183; Filed, Sept. 6, 1956; 8:48 a. m.]

[Vesting Order SA-124]

PRAGUE CREDIT BANK, BUCHAREST, RUMANIA

In re: Debt owing to Prague Credit Bank, Bucharest, Rumania. F-57-1256.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obliga-

tion of the State of New York, Department of Audit and Control, Albany, New York, arising out of an account entitled "Prague Credit Bank, Bucharest, Rumania", maintained by the aforesaid Department of Audit and Control, together with any and all rights to demand, enforce, and collect the same,

is property within the United States, which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947 was, owned directly or indirectly by The Prague Credit Bank, Bucharest, Rumania, a national of Rumania as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on August 31, 1956.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 56-7184; Filed, Sept. 6, 1956; 8:48 a. m.]